

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number WEILAND, GOLDEN, SMILEY, WANG EKVALL & STROK, LLP Jeffrey I. Golden, State Bar No. 133040 jgolden@wglp.com 650 Town Center Drive, Suite 950 Costa Mesa, CA 92626 Telephone: (714) 966-1000 Facsimile: (714) 966-1002	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: MICHAEL WALTER KENNEDY and SUSAN LOUISE KENNEDY, <div style="text-align: right;">Debtor(s).</div>	CASE NO. 8:08-bk-17085-TA Chapter 7

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: July 7, 2009	Time: 11:00 a.m.
Location: Courtroom 5B, Ronald Reagan Federal Building, 411 West Fourth Street, Santa Ana, California	

Type of Sale: Public Private Last date to file objections: June 23, 2009

Description of Property to be Sold: 200 East Foundation Avenue, La Habra, California 90631

Terms and Conditions of Sale: See attached Notice of Hearing on Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. §§ 363(b) and (f); (2) Approving Overbid Procedures; (3) Approving Buyer, Successful Bidder and Back-up Bidder as Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m); (4) Authorizing Employment of Real Estate Co-Brokers (Prudential California Realty and Colliers International) and (5) Authorizing Payment of Undisputed Liens, Real Estate Broker's Commissions and Other Ordinary Costs of Sale (the "Notice")

Proposed Sale Price: See attached Notice

Overbid Procedure (If Any): See attached Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing: See attached Notice

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Jeffrey I. Golden, Esq.
Weiland, Golden, Smiley, Wang Ekvall & Strok, LLP
650 Town Center Drive, Suite 950
Costa Mesa, CA 92626
(714) 966-1000 (tel); (714) 966-1002 (fax)

Date: June 11, 2009

1 **WEILAND, GOLDEN,
SMILEY, WANG EKVALL & STROK, LLP**

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6
7 Attorneys for Weneta M.A. Kosmala,
Chapter 7 Trustee,

8 **UNITED STATES BANKRUPTCY COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **SANTA ANA DIVISION**

11 In re

12 MICHAEL WALTER KENNEDY and
13 SUSAN LOUISE KENNEDY,

14 Debtors.

Case No. 8:08-bk-17085-TA

Chapter 7 Case

**NOTICE OF HEARING ON MOTION FOR
ORDER: (1) AUTHORIZING SALE OF REAL
PROPERTY FREE AND CLEAR OF LIENS,
CLAIMS, AND INTERESTS PURSUANT TO
11 U.S.C. §§ 363(b) AND (f); (2) APPROVING
OVERBID PROCEDURES; (3) APPROVING
BUYER, SUCCESSFUL BIDDER, AND BACK-
UP BIDDER AS GOOD-FAITH PURCHASER
PURSUANT TO 11 U.S.C. § 363(m);
(4) AUTHORIZING EMPLOYMENT OF REAL
ESTATE CO-BROKERS (PRUDENTIAL
CALIFORNIA REALTY AND COLLIERS
INTERNATIONAL); AND (5) AUTHORIZING
PAYMENT OF UNDISPUTED LIENS, REAL
ESTATE BROKER'S COMMISSIONS AND
OTHER ORDINARY COSTS OF SALE**

**[200 East Foundation Avenue, La Habra,
California 90631]**

Date: July 7, 2009

Time: 11:00 a.m.

Ctrm: 5B

411 West Fourth Street
Santa Ana, California

26 **PLEASE TAKE NOTICE** that Weneta M.A. Kosmala, the chapter 7 trustee (the
27 "Trustee") of the estate (the "Estate") of Michael Walter Kennedy and Susan Louise
Kennedy (together, the "Debtors") has filed a motion for an order (the "Motion"):

- 1 (1) approving the sale of the approximate 19,968 square foot industrial building
2 located at 200 East Foundation Avenue, La Habra, California 90631 (the
3 "Property") as-is, where-is, with all faults, and without any representation or
4 warranty, implied or express, but free and clear of any and all liens, claims,
5 and interests pursuant to 11 U.S.C. §§ 363(b) and (f);
- 6 (a) to Todd and Kelly Roberts and/or their assigns (the "Buyer") for
7 \$1,577,472.00 (the "Purchase Price") pursuant to the terms of the
8 Standard Offer, Agreement and Escrow Instructions for Purchase of
9 Real Estate (Non-Residential) (the "Purchase Agreement") attached
10 as Exhibit "1" to the Motion; or
- 11 (b) to the successful bidder whose purchase offer for the Property is
12 accepted by the Trustee at the hearing on the Motion;
- 13 (2) approving the overbid procedures set forth in the Motion as summarized
14 below;
- 15 (3) approving the Buyer, the successful bidder, and the back-up bidder as a
16 "good faith" purchaser under § 363(m) of the Bankruptcy Code;
- 17 (4) authorizing the Trustee to employ Prudential California Realty and Colliers
18 International as her real estate co-brokers, and Clarence Yoshikane and
19 Bradford Christian, agents of the co-brokers, in connection with the
20 marketing and sale of the Property. The total commission for the Property is
21 six percent (6%). The commission will be shared with the buyer's broker
22 and will be paid from the sale proceeds through escrow.
- 23 (5) authorizing the Trustee to pay the Banco Popular North America lien (or the
24 undisputed portion of such lien), the Inland Community Bank liens (or the
25 undisputed portion of such liens), the Golden State Bank lien, any property
26 tax liens, costs of sale, broker's commission, and the Estate's pro rata share
27 of real property taxes, in full from the proceeds of the sale;
- 28 (6) any unpaid portion of the Banco Popular North America lien, the Inland
Community Bank liens, and the Golden State Bank lien shall attach to the
sales proceeds in the same value, priority and scope as such lien currently
exists against the Property, subject to any and all of the Trustee's rights to
object to, dispute, or subordinate such lien;
- (7) authorizing the Trustee to take any and all necessary actions to
consummate the sale of the Property; and
- (8) granting such other and further relief as this Court deems necessary and
proper.

24 **PLEASE TAKE FURTHER NOTICE** that the Motion is scheduled for hearing in
25 Courtroom 5B of the above-entitled court located at the 411 West Fourth Street, Santa
26 Ana, California, on July 7, 2009, at 11:00 a.m.

26 **PLEASE TAKE FURTHER NOTICE that all overbids must be in writing and**
27 **must be submitted to counsel for the Trustee whose address is listed in the top left**
28 **hand corner of the first page of the instant Notice. Overbids are due on or before**
July 2, 2009, at 10:00 a.m.

1 **PLEASE TAKE FURTHER NOTICE** that the overbid procedures sought be
approved by the Court are as follows:

2 1. Qualifying bidders ("Qualifying Bidder") shall:

3 a. Bid at least \$1,590,000.00 in cash, for the Property;

4 b. Set forth in writing the terms and conditions of the offer that are
5 at least as favorable to the Trustee as those set forth in the Purchase
6 Agreement attached as Exhibit "1" to the Motion;

7 c. Be financially qualified, in the Trustee's exercise of her sound
8 business judgment, to close the sale by no later than 14 days after
9 entry of an order granting this Motion;

10 d. Submit an offer that does not contain any contingencies to
closing the sale, including, but not limited to, financing, inspection, or
11 repair contingencies;

12 e. Submit a cash deposit of \$40,000.00 (the "Overbid Deposit")
13 payable to Weneta M.A. Kosmala, Chapter 7 Trustee of the Estate of
14 Michael Walter Kennedy and Susan Louise Kennedy, in the form of a
cashier's check, which Overbid Deposit shall be non-refundable if the
bid is deemed to be the Successful Bid, as defined in paragraph 4
below. The Overbid Deposit, written offer, and evidence of financial
qualification must be delivered to the Trustee, through her counsel,
on or before July 2, 2009, at 10:00 a.m.

15 2. At the hearing on the Motion, only the Buyer and any party who is
16 deemed a Qualifying Bidder shall be entitled to bid.

17 3. Any incremental bid in the bidding process shall be at least Five
Thousand Dollars (\$5,000.00) higher than the prior bid.

18 4. At the hearing on the Motion and upon conclusion of the bidding
19 process, the Trustee shall decide, subject to Court approval, which of the bids is
the best bid, and such bid shall be deemed to be the "Successful Bid." The bidder
20 who is accepted by the Trustee as the successful bidder (the "Successful
Bidder") must pay all amounts reflected in the Successful Bid in cash at the closing
21 of the sale. At the hearing on the Motion, and upon conclusion of the bidding
process, the Trustee may also acknowledge a back-up bidder (the "Back-Up
22 Bidder") which shall be the bidder with the next best bid. Should the Successful
Bidder fail to close escrow on the sale of the Property, the Trustee may sell the
23 Property to the Back-Up Bidder without further Court order.

24 5. Overbids shall be all cash and no credit shall be given to the
purchaser or overbidder(s).

25 The Motion is based upon the Memorandum of Points and Authorities, the
26 Declarations of Weneta M.A. Kosmala, Jeffrey I. Golden, and Clarence Yoshikane
attached to the Motion, all pleadings, papers and records on file with this Court, and on
27 such other evidence, oral or documentary, as may be presented to this Court at the time
of the hearing on the Motion.

28

1 A complete copy of the Motion may be obtained from the Clerk of the Bankruptcy
2 Court.

3 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(f)
4 provides:

5 Except as set forth in LBR 7056-1 with regard to motions for
6 summary judgment or partial summary adjudication, LBRs 2014-
7 1(b), 2016-1(a)(2), 3015-1(w) and (x), and 9013-1(o) with regard
8 to motions and matters that may not require a hearing, LBR 9075-
9 1 with regard to motions to be heard on an emergency or
10 shortened notice basis or unless otherwise ordered by the court,
11 each interested party opposing, joining, or responding to the
12 motion shall file and serve on the moving party and the United
13 States trustee not later than fourteen (14) days before the date
14 designated for hearing either:

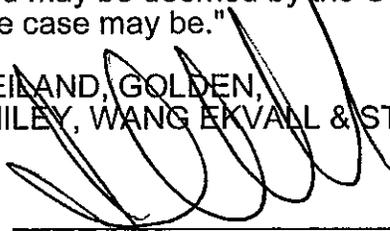
15 (1) A complete written statement of all reasons in
16 opposition thereto or in support or joinder thereof,
17 declarations and copies of all photographs and
18 documentary evidence on which the responding party
19 intends to rely, and any responding memorandum of points
20 and authorities. The opposing papers must advise the
21 adverse party that any reply to the opposition must be filed
22 with the court and served on the opposing party not later
23 than 7 days prior to the hearing on the motion; or

24 (ii) A written statement that the motion will not be opposed.

25 **PLEASE TAKE FURTHER NOTICE** that Local Bankruptcy Rule 9013-1(h)
26 provides: "Papers not timely filed and served may be deemed by the Court to be consent
27 to the granting or denial of the motion, as the case may be."

28 DATED: ~~May 11~~, 2009

WEILAND, GOLDEN,
SMILEY, WANG EKVALL & STROK, LLP

By: 
JEFFREY I. GOLDEN
Counsel for Weneta M.A. Kosmala,
Chapter 7 Trustee

In re: MICHAEL AND SUSAN KENNEDY

CHAPTER 7

Debtor(s). CASE NUMBER 08-17085 TA

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 TOWN CENTER DRIVE, SUITE 950, COSTA MESA, CA 92626

A true and correct copy of the foregoing document described NOTICE OF HEARING ON MOTION FOR ORDER: (1) AUTHORIZING SALE OF REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS PURSUANT TO 11 U.S.C. §§ 363(b) AND (f); (2) APPROVING OVERBID PROCEDURES; (3) APPROVING BUYER, SUCCESSFUL BIDDER, AND BACK-UP BIDDER AS GOOD-FAITH PURCHASER PURSUANT TO 11 U.S.C. § 363(m); (4) AUTHORIZING EMPLOYMENT OF REAL ESTATE CO-BROKERS (PRUDENTIAL CALIFORNIA REALTY AND COLLIERS INTERNATIONAL); AND (5) AUTHORIZING PAYMENT OF UNDISPUTED LIENS, REAL ESTATE BROKER'S COMMISSIONS AND OTHER ORDINARY COSTS OF SALE will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On JUNE 11, 2009 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On JUNE 11, 2009 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, On June 11, 2009 I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

The Honorable Theodor Albert
411 W. 4th Street, Suite 2030
Santa Ana, CA 92701

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

6/11/09
Date

Kelly M. Rivera
Type Name


Signature

MASTER CREDITORS' LIST

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MICHAEL WALTER KENNEDY
1000 S EUCLID ST
LA HABRA CA 90631
DEBTOR

CHARLES W DAFF
LAW OFFICES OF CHARLES W DAFF
2009 N BROADWAY
SANTA ANA CA 92706
COUNSEL FOR DEBTORS

UNITED STATES TRUSTEE (SA)
411 W FOURTH ST #9041
SANTA ANA CA 92701-4593

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WILMINGTON DE 19886-5726

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PO BOX 16279
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CHAPTER 7 TRUSTEE

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ALTURA CREDIT UNION
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RIVERSIDE CA 92507

BANCO POPULAR NO AMERICA
TRUSTEE CORPS
30 CORPORATE PARK #400
IRVINE CA 92606

BANK OF AMERICA
ATTN: BANKRUPTCY
DEPT NC4-105-03-14
GREENSBORO NC 27420

BANK OF AMERICA
PO BOX 21848
GREENSBORO NC 27420-1848

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DEVELOPMENT DEPT
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FUTURE CARS
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ORANGE CA 92868

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2			
3	INLAND COMMUNITY BANK NA C/O BDFTW LLP 917 S VILLAGE OAKS DR #200 COVINA CA 91724	INLAND COMMUNITY BANK C/O ROBERT E WEISS 920 S VILLAGE OAKS DR COVINA CA 91724	INLAND COMMUNITY BANK 3999 INLAND ONTARIO CA 91764
4			
5	INTERNAL REVENUE SERVICE CENTRALIZED INSOLVENCY OPPS PO BOX 21126 PHILADELPHIA PA 19114-0326	LELAND HERNANDEZ 608 LANDER STREET RENO NV 89509	MARK WRAY 608 LANDER STREET RENO NV 89509
6			
7			
8	MCDONALD CARANO WILSON MICHAEL S KIMMEL PO BOX 2670 RENO NV 89501	NORTH ORANGE COUNTY SUPE	OPUS FINANCIALS 9623 CANOGA AVE CHATSWORTH CA 91311
9			
10	ORANGE COUNTY RECORDER PO BOX 1438 SANTA ANA CA 92702	ORANGE COUNTY TREASURER TAX COLLECTOR ATTN: BANKRUPTCY UNIT PO BOX 1438 SANTA ANA CA 92702	PAHL & MCCAY 225 W SANTA CLARA ST #1500 SAN JOSE CA 95113
11			
12	PDM STEEL SERVICE CENTERS INC 1250 KLEEPE LANE SPARKS NV 89431	PDM STEEL SERVICE CENTERS PO BOX 310 STOCKTON CA 95201	PRENOVOST NORMANDIN STEVE BERG 2122 N BROADWAY #200 SANTA ANA CA 92706-2614
13			
14	PRESTO PROP/R VENTURACCI CASE IBRAHIM & CLAUSS LLP D MICHAEL CLAUSS ESQ 2855 MICHELLE DR #120 IRVINE CA 92606	PRESTO PROPERTIES LLC CASE IBRAHIM & CLAUSS LLP C/O MICHAEL CLAUSS 2855 MICHELLE DR #120 IRVINE CA 92606	PRESTO PROPERTIES 1462 DOUGLAS AVE GARDNERVILLE NV 89410
15			
16	RANDALL L MYERS 2662 LOOKOUT CIRCLE CHINO HILLS CA 91709	RANDALL VENTURACCI 890 E PATRIOT BLVD #E RENO NV 89410	RICHARD J STRAYER 800 S HARBOR BLVD #270 ANAHEIM CA 92805
17			
18	RICHARD UNDERWOOD 608 LANDER STREET RENO NV 89509	ROBERT WEISS INC 920 S VILLAGE OAKS DR COVINA CA 91724	ROSMAN & GERMAIN DANIEL L GERMAIN 16311 VENTURA BLVD #1200 ENCINO CA 91436-2152
19			
20	SAMS CLUB ATTN: BANKRUPTCY DEPT PO BOX ROSWELL GA 30076	SAMS CLUB PO BOX 981400 EL PASO TX 79998	SCOTT MULDNER 1523 WINSTON DR ESCONDIDO CA 92029
21			
22	SO CALIFORNIA EDISON CO ATTN CREDIT & PMT SERVICES 300 N LONE HILL AVE SAN DIMAS CA 91773	STATE BOARD OF EQUALIZATION PO BOX 942879 SACRAMENTO CA 94279-0001	D. MICHAEL CLAUSS, ESQ. CASE, IBRAHIM & CLAUSS, LLP 2855 MICHELLE DR., SUITE 120 IRVINE, CA 92606
23			
24			
25	DAVID WISEBLOOD SEYFARTH SHAW LLP 560 MISSION ST, STE 3100 SAN FRANCISCO, CA 94105		
26			
27			
28			

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