

Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No. Leonard M. Shulman – State Bar No. 126349 Robert E. Huttenhoff – State Bar No. 214447 SHULMAN HODGES & BASTIAN LLP 8105 Irvine Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lshulman@shbllp.com rhuttenhoff@shbllp.com Special Counsel for Howard M. Ehrenberg, Chapter 7 Trustee	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: NANCY DAVIS, Debtor(s).	CASE NO.: 2:11-bk-58593-BR Chapter 7

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: August 28, 2013	Time: 2:00 p.m.
-----------------------------------	------------------------

Location: United States Bankruptcy Court, Ctrm. 1668, 255 E. Temple Street, Los Angeles, CA 90012
--

Type of Sale: Public Private Last date to file objections: **August 14, 2013**
Description of Property to be Sold: **100% Ownership Interest in Peace & Love Jewelry by Nancy Davis, LLC**

Terms and Conditions of Sale: **See the attached Chapter 7 Trustee’s Motion for an Order: 1) Approving the Sale of Personal Property Free and Clear of Liens Pursuant to Bankruptcy Code § 363(B)(1) and (F) and Subject to Overbids Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; 2) Authorizing Payment of Contingency Fee to Special Counsel; and 3) Granting Related Relief; Memorandum of Points And Authorities; and Declaration of Howard M. Ehrenberg in Support Thereof (“Sale Motion”)**

Proposed Sale Price: **\$150,000.00**

Overbid Procedure (If Any): **See Attached Sale Motion**

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:
August 28, 2013 at 2:00 p.m., U.S. Bankruptcy Court, Ctrm. 1668, 255 E. Temple Street, Los Angeles, CA 90012

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

Robert E. Huttenhoff, Esq.
Shulman Hodges & Bastian LLP
8105 Irvine Center Drive, Suite 600, Irvine, CA 92618
Telephone: (949) 340-3400; Facsimile: (949) 340-3000

Dated: **August 2, 2013**

1 Leonard M. Shulman - Bar No. 126349
Robert E. Huttenhoff – Bar No. 214447
2 **SHULMAN HODGES & BASTIAN LLP**
8105 Irvine Center Drive, Suite 600
3 Irvine, California 92618
Telephone: (949) 340-3400
4 Facsimile: (949) 340-3000
Email: lshulman@shbllp.com; rhuttenhoff@shbllp.com

5
6 Special Counsel for Howard M. Ehrenberg,
the Chapter 7 Bankruptcy Trustee

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**

10 In re

11 **NANCY DAVIS**

12 Debtor.

Case No. 2:11-bk-58593-BR

Chapter 7

**CHAPTER 7 TRUSTEE’S MOTION FOR
AN ORDER:**

- 13
14 1) **APPROVING THE SALE OF
PERSONAL PROPERTY FREE
AND CLEAR OF LIENS
PURSUANT TO BANKRUPTCY
CODE § 363(b)(1) AND (F) AND
SUBJECT TO OVERBIDS
COMBINED WITH NOTICE OF
BIDDING PROCEDURES AND
REQUEST FOR APPROVAL OF
THE BIDDING PROCEDURES
UTILIZED;**
- 15
16
17
18
19
20 2) **AUTHORIZING PAYMENT OF
CONTINGENCY FEE TO
SPECIAL COUNSEL; AND**
- 21
22 3) **GRANTING RELATED RELIEF;**

23 **MEMORANDUM OF POINTS AND
AUTHORITIES; AND DECLARATION
OF HOWARD M. EHRENBERG IN
SUPPORT THEREOF**

24 **Hearing**

25
26 Date: August 28, 2013
Time: 2:00 p.m.
27 Place: Courtroom 1668
United States Bankruptcy Court
255 E. Temple Street
28 Los Angeles, CA 90012

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

I. INTRODUCTION 1

II. STATEMENT OF FACTS 2

 A. Case Background 2

 B. Peace & Love Jewelry by Nancy Davis, LLP..... 2

 C. Proposed Purchase Offer for Peace & Love Jewelry by Nancy Davis, LLP 4

 D. Notice of Bidding Procedures 5

III. MEMORANDUM OF POINTS AND AUTHORITIES 7

 A. The Court May Authorize the Sale When There is a Good Faith Purchaser 7

 1. Sound Business Purpose 7

 2. The Sale Serves the Best Interest of the Estate and Creditors 9

 3. Accurate and Reasonable Notice 9

 4. The Sale is Made in Good Faith 10

 B. The Proposed Sale of the Property Should be Allowed Free and Clear of Liens..... 10

 C. The Court has the Authority to Waive the Fourteen-Day Stay of Sale 11

 D. The Court has the Authority to Approve the Bidding Procedures..... 11

 1. The Overbid Procedures are Untainted by Self-Dealing 12

 2. The Overbid Procedures Encourage Bidding and are Fair in Amount 12

 3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of the Estate 12

 E. Request for Authorization to Pay Compensation to Special Counsel in Connection with Estate Recovery 13

IV. CONCLUSION..... 15

DECLARATION OF HOWARD M. EHRENBERG 16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

CASES

In re Continental Air Lines, Inc.,
780 F.2d 1223 (5th Cir. 1986) 7

In re Crown Corporation,
679 F.2d 774 (9th Cir. 1982) 11

In re Crowthers McCall Pattner, Inc.,
114 B.R. 877 (Bankr. S.D.N.Y. 1990)..... 7

In re Lionel Corp.,
722 F.2d 1063 (2d Cir. 1983)..... 7, 8

In re Lionel Corp., 722 F.2d 1063 (2d Cir. 1983) 7

In re Walter, 83 B.R. 14 (B.A.P. 9th Cir. 1988) 7

In re Wilde Horse Enterprises, Inc.,
136 B.R. 830, 841 (Bankr. C.D. Cal. 1991)..... 7, 10

STATUTES

11 U.S.C. § 102(1) 9

11 U.S.C. § 105(a) 11

11 U.S.C. § 327(a) 13

11 U.S.C. § 328(a) 14

11 U.S.C. § 363(b) 7

11 U.S.C. § 363(b)(1) 11

Bankruptcy Code Section 105(a) 11

Bankruptcy Code Section 328 14

Bankruptcy Code Section 363(b)..... 7

Bankruptcy Code Section 363(b)(1) 11

Bankruptcy Code Section 363(f) 10, 13

Bankruptcy Code Section 363(m)..... 10

Federal Rule of Bankruptcy Procedure 6004(h) 11

Federal Rules of Bankruptcy Procedure 2002 9

Federal Rules of Bankruptcy Procedure 2002(c)(1) 9

Local Bankruptcy Rule 6004-1(f)..... 9

1 Through this Sale Motion, the Trustee also requests that he be authorized to pay
2 compensation to Special Counsel (defined below). The Trustee retained Special Counsel on a
3 contingency fee basis of 33.33% of any gross recovery obtained. Upon the closing of the above
4 transactions, the Trustee will be in possession of \$150,000.00 (“Gross Recovery”). As such, the
5 Trustee seeks authority to pay Special Counsel on an interim basis the amount of \$49,995.00.

6 This Sale Motion is based on the attached Memorandum of Points and Authorities, the
7 Declaration and Exhibits annexed thereto, the pleadings on file and the record in this case, and
8 such other evidence and arguments of counsel as may be presented to the Court prior to or at
9 time of hearing.

10 **II. STATEMENT OF FACTS**

11 **A. Case Background**

12 The Debtor filed a voluntary petition for relief under Chapter 7 of United States
13 Bankruptcy Code on November 28, 2011 (“Petition Date”).

14 On December 2, 2011, the Clerk of the Court issued a Case Commencement Deficiency.

15 On December 8, 2011, the Debtor filed an ex parte application to extend the deadline to
16 file 1) Schedules of Assets and Liabilities, 2) Statement of Financial Affairs and 3) Other Related
17 Documents (“Motion to Extend”). On December 9, 2011, the Court entered an order granting
18 the Motion to Extend.

19 On December 27, 2011, the Debtor filed the supplemental pleadings related to the
20 Chapter 7 petition.

21 Howard M. Ehrenberg is the duly appointed, qualified and acting Chapter 7 Trustee for
22 the Debtor’s Estate.

23 **B. Peace & Love Jewelry by Nancy Davis, LLP**

24 As of the Petition Date, the Debtor owned a one hundred percent (100%) ownership
25 interest in Peace & Love.

26 ///

27 ///

28 ///

1 Among the documents produced by the Debtor in response to the 2004 Order were Profit
2 and Loss Statements for the Debtor for 2007-2011. These documents reflect losses in the amount
3 of approximately \$846,330.00 from business operations. Specifically, the following is a summary
4 of the losses incurred each year:

- 5 • 2007 losses total \$226,682.00
- 6 • 2008 losses total \$250,196.00
- 7 • 2009 losses total \$162,851.00
- 8 • 2010 losses total \$104,786.00
- 9 • 2011 losses total \$101,814.00

10 The Debtor also produced the balance sheet for Peace & Love dated November 30, 2012
11 (“Balance Sheet”). Attached to the Declaration of Howard M. Ehrenberg as **Exhibit “1”** is a true
12 and correct copy of the Balance Sheet, Statement of Income and Expenses and Accounts Payable.

13 The Balance Sheet lists total current assets of \$172,466.00 (\$1,082.00 for accounts
14 receivables and \$156,254.00 for inventory). The Trustee is informed that the value of the
15 inventory may be overstated and includes older product that has not sold. By comparison, the
16 Balance Sheet lists total liabilities at \$303,539.00, including \$220,000.00 owed to legal counsel.
17 As such, pursuant to the Balance Sheet the liabilities greatly exceed the assets.

18 Among the assets of Peace & Love is trademark infringement litigation entitled Peace &
19 Love Jewelry by Nancy Davis v. Kohl’s Department Store, Case No. 10-0417 pending in the
20 United States District Court, Central District of California (“Kohl’s Litigation”). The Trustee has
21 investigated the merits of the Kohl’s Litigation and potential benefit to the Estate based on the
22 potential success in the Kohl’s Litigation or through settlement. The Trustee has learned that
23 Peace & Love’s former legal counsel, Browne George Ross LLP, served the parties with a Notice
24 of Attorney Lien based on the firm’s outstanding debt of approximately \$220,000.00 in
25 connection with the Kohl’s Litigation. As such, any recovery from the Kohl’s Litigation would
26 first be subject to the attorney lien of Browne George Ross LLP and limit the potential recovery
27 to Peace & Love from the Kohl’s Litigation.

28 ///

1 It should be noted that Browne George Ross LLP also filed a proof of claim in the
2 Debtor's Estate on account of this same debt (Proof of Claim No. 3). To the extent Peace & Love
3 is successful in the Kohl's Litigation the total claims owed by the Estate would potentially be
4 reduced based on payment of this debt.

5 **C. Proposed Purchase Offer for Peace & Love Jewelry by Nancy Davis, LLP**

6 The Trustee has received an offer from Nancy Davis to purchase the Estate's interest in
7 Peace & Love for a cash offer of \$150,000.00 plus additional consideration. In summary, the
8 principal terms of the sale of the Property shall be as follows (the Trustee is referred to at times as
9 the "Seller" and Nancy Davis the "Buyer" in the following summary):

10 • Purchase Price. The purchase price which Seller agrees to accept and Buyer
11 agrees to pay for the Property is the sum of One Hundred and Fifty Thousand Dollars
12 (\$150,000.00) (the "Purchase Price"). The Purchase Price shall be paid in Good Funds (as
13 defined herein), and shall be payable to "Howard M. Ehrenberg, in his capacity as Chapter 7
14 Trustee"

15 • Additional Consideration - Interest in Any Potential Recovery from Kohl's
16 Litigation. In addition to the Purchase Price referenced in Section 1.2., the Estate shall also be
17 entitled to two percent (2%) of any net recovery in the Kohl's Litigation. For the purposes of this
18 Agreement, "net recovery" shall mean the amount of any recovery Peace & Love receives in the
19 Kohl's Litigation (either by settlement or judgment) after payment of legal fees, costs from
20 litigation and/or any liens that exist with regard to the Kohl's Litigation. However, Peace & Love
21 shall have no duty to pursue the litigation and can exercise its right to settle the litigation with
22 Kohl's at its own discretion.

23 • Closing. The closing of the transactions contemplated by this Agreement (the
24 "Closing") shall take place and become effective upon the executing and exchanging counterpart
25 signatures to this Agreement, which shall occur within fifteen (15) days of entry of a Court order
26 approving this Agreement (the "Closing Date").

27 • Bankruptcy Court Approval. The sale is expressly conditioned on approval of the
28 United States Bankruptcy Court for the Central District of California, Los Angeles Division and
entry of final order approving the Agreement.

• As Is/Where Is. The Seller shall sell, transfer, convey and deliver to Buyer the
Assets on an "As Is" and "Where Is" basis, without any representations or warranties of any
kind, except as expressly set forth herein.

• Waiver. Buyer hereby acknowledges and waives any and all claims, warranties,
guarantees, refunds, causes of action, rights of recovery, rights of set-off and rights of
recoupment of every kind and nature and interests in the Assets being sold to Buyer pursuant to
this Agreement; and the Purchase Price shall not be subject to any offset, decrease, reductions,
deductions, or counterclaim of any kind or nature whatsoever.

///
28

1 • Additional Agreements; Reasonable Efforts. Subject to the terms and conditions
2 of this Agreement, the Parties agree to use all commercially reasonable efforts to take, or cause
3 to be taken, action and to do, or cause to be done, all things necessary, proper or advisable under
4 applicable laws and regulations to consummate and make effective the transactions contemplated
5 by this Agreement, including cooperating fully with the other Party and providing to the other
6 Party any information reasonably required. In case at any time after the Closing any further
7 action is necessary or desirable to carry out the purposes of this Agreement, the Parties shall take
8 all such necessary action.

5 • Governing Law. This Agreement is to be governed by and construed in
6 accordance with the laws of the State of California.

7 • Jurisdiction of the Bankruptcy Court. Any and all disputes which involve in any
8 manner the Estate or the Trustee, arising from the Agreement or relating in any manner to the
9 Property, shall be resolved only in the United States Bankruptcy Court, Central District of
10 California.

9 The above is a summary of the Agreement's terms and highlights. However, the summary
10 and discussion are not meant to be a complete review of every provision of the Agreement. The
11 Agreement itself is the legally binding document the Trustee seeks approval of, and in the event
12 of any inconsistency between the terms, provisions, or effect of the Agreement and the
13 description of it in these pleadings, the Agreement alone shall govern and not these pleadings or
14 the descriptions herein.

15 Based on the foregoing, the Trustee believes that a sale of the Estate's interest in Peace &
16 Love for \$150,000.00 is in the best interest of the Estate. Attached to the Declaration of Howard
17 M. Ehrenberg as **Exhibit "2"** is a true and correct copy of Asset Purchase Agreement
18 ("Agreement").

19 The Trustee is informed that the Debtor's interest in Peace & Love is not subject to any
20 liens or encumbrances. However, out of an abundance of caution, the Trustee seeks to the sell the
21 Property free and clear of any and all liens and encumbrances.

22 **D. Notice of Bidding Procedures**

23 The Trustee has determined that it would benefit the Estate to permit all interested parties
24 to receive information and bid for the Property instead of selling the Property to the Nancy Davis
25 on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of
26 the creditors of this Estate, the Trustee also seeks Court approval of the following bidding
27 procedures ("Bidding Procedures"):

28 ///

1 (a) The potential over bidders must bid an initial amount of at least Fifteen
2 Thousand Dollars (\$15,000.00) over the purchase price offered for the Property by the Buyer.
3 Minimum bid increments thereafter shall be Five Thousand Dollars (\$5,000.00).

4 (b) Overbids must be in writing and be received by the Trustee and the Trustee's
5 counsel, Shulman Hodges & Bastian LLP to the attention of Robert E. Huttenhoff, on or before
6 4:00 p.m. (California time) on the date which is one week prior to the hearing on the motion
7 by the Trustee to the Bankruptcy Court for approval of the Agreement and sale of the Property
8 ("Sale Motion").

9 (c) Overbids must be accompanied by a deposit ("Overbid Deposit") in the form
10 of certified funds in the amount of at least **Twenty-Five Thousand Dollars (\$25,000.00)** payable to
11 "Howard M. Ehrenberg, Chapter 7 Trustee for the Bankruptcy Estate of Nancy Sue Davis."

12 (d) The over bidder must also provide evidence satisfactory to the Trustee of
13 having sufficient specifically committed funds to complete the transaction or a lending commitment
14 for the bid amount and such other documentation relevant to the bidder's ability to qualify as the
15 purchaser of Property and ability to close the sale and immediately and unconditionally pay the
16 winning bid purchase price at closing.

17 (e) The over bidder must seek to acquire the Property on terms and conditions
18 not less favorable to the Estate than the terms and conditions to which the Buyer has agreed to
19 purchase the Property, including but not limited to all bids shall be non-contingent and closing on
20 the Transaction in the same time parameters as the Buyer. For the purposes of bidding, all-cash
21 consideration shall be favored by the Trustee.

22 (f) All competing bids must acknowledge that the bidder is purchasing the
23 Property from the Seller on an "AS IS - WHERE IS" basis without representations or warranties of
24 any kind, express or implied, being given by the Seller, concerning the value, condition or fitness of
25 purpose for any use thereof. The competing bid must acknowledge that it is aware that the Property
26 may be complicated by pending litigation. The competing bid must represent and warrant that the
27 bidder is purchasing the Purchase Interest as a result of its own investigations and is not buying the
28 Property pursuant to any representation made by any broker, agent, accountant, attorney or
employee acting at the direction or on behalf of the Seller. The competing bid must acknowledge
that the bidder has inspected the Membership Interest, and upon Bankruptcy Court approval of the
competing bid Agreement, the competing bidder forever waives, for itself, and its successors and
assigns, any and all claims against the Estate, Howard M. Ehrenberg, as the Trustee of the Estate
and in his individual capacity, and his attorneys, agents, and employees, arising or which might
otherwise arise in the future concerning the Membership Interest.

(g) If overbids are received, the final bidding round for the Property shall be
held at the hearing on the Sale Motion in order to allow all potential bidders the opportunity to
overbid and purchase the Membership Interest. At the final bidding round to be conducted before
the Court, the Trustee will seek entry of an order, inter alia, authorizing and approving the sale of
the Property to the bidder who the Trustee, in the exercise of his business judgment, may determine
to have made the highest and best offer to purchase the Membership Interest, consistent with the
Bidding Procedures ("Successful Bidder"). The hearing on the Sale Motion may be adjourned or
rescheduled without notice other than by an announcement of the adjourned date at the hearing on
the Sale Motion.

1 (h) At the hearing on the Sale Motion, the Trustee will seek entry of an order,
inter alia, authorizing and approving the sale of the Property to the Successful Bidder.

2 (i) In the event Successful Bidder fails to close on the sale of the Property
3 within the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's
4 Overbid Deposit and will be released from his obligation to sell the Property to the Successful
5 Bidder and the Trustee may then sell the Property to the first back-up bidder approved by the Court
at the hearing on the Sale Motion ("First Back-Up Bidder").

6 (j) In the event First Back-Up Bidder fails to close on the sale of the Property
7 within the time parameters approved by the Court, the Trustee shall retain the First Back-Up
8 Bidder's Overbid Deposit and will be released from his obligation to sell the Property to the First
Back-Up Bidder and the Trustee may then sell the Property to the second back-up bidder approved
by the Court at the hearing on the Sale Motion ("Second Back-Up Bidder").

9 **III. MEMORANDUM OF POINTS AND AUTHORITIES**

10 **A. The Court May Authorize the Sale When There is a Good Faith Purchaser**

11 The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b).
12 The standards to establish are that there is a sound business purpose for the sale, that the sale is
13 in the best interests of the estate, i.e., the sale is for a fair and reasonable price, that there is
14 accurate and reasonable notice to creditors and that the sale is made in good faith. *In re Wilde*
15 *Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d
16 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale to one of
17 very few serious bidders where an asset has been shopped and a delay could jeopardize the
18 transaction. *See, e.g., In re Crowthers McCall Pattner, Inc.*, 114 B.R. 877, 885 (Bankr. S.D.N.Y.
19 1990) (extreme difficulty finding a buyer justified merger when buyer found). The Trustee's
20 proposed sale of Property meets the foregoing criteria.

21 **1. Sound Business Purpose**

22 The Ninth Circuit has adopted a flexible, case-by-case test to determine whether the
23 business purpose for a proposed sale justifies disposition of property of the estate under Section
24 363(b). *In re Walter*, 83 B.R. 14 (B.A.P. 9th Cir. 1988). In *Walter*, the Ninth Circuit, adopting
25 the reasoning of the Fifth Circuit in *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir.
26 1986), and the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983), set forth the
27 following standard to be applied under Bankruptcy Code Section 363(b):

28 ///

1 Whether the proffered business justification is sufficient depends on the
2 case. As the Second Circuit held in *Lionel*, the bankruptcy judge should
3 consider all salient factors pertaining to the proceeding and, accordingly,
4 act to further the diverse interests of the debtor, creditors and equity
5 holders, alike. He might, for example, look to such relevant factors as the
6 proportionate value of the assets to the estate as a whole, the amount of
7 lapsed time since the filing, the likelihood that a plan of reorganization
8 will be proposed and confirmed in the near future, the effect of the
9 proposed disposition on future plans of reorganization, the proceeds to be
10 obtained from the disposition vis-a-vis any appraisals of the property,
11 which of the alternatives of use, sale or lease the proposal envisions and,
12 most importantly perhaps, whether the asset is increasingly or decreasing
13 in value. This list is not intended to be exclusive, but merely to provide
14 guidance to the bankruptcy judge.

15 *Walter*, 83 B.R. at 19-20 (quoting *Continental*, 780 F.2d at 1226).

16 Here, the facts surrounding the sale of the Property support the Trustee's business
17 decision that the proposed sale is in the best interests of the Estate and its creditors. The
18 Trustee's analysis of Peace & Love's financial records along with the Kohl's Litigation has
19 resulted in his decision that the proposed sale is in the best interests of the Estate and its
20 creditors. The Trustee has not received any other offers that would result in a greater benefit to
21 the Estate than the current offer from Nancy Davis.

22 Through the sale, the Trustee will generate immediate cash proceeds in the total amount
23 of \$150,000.00 which will benefit the Estate. In addition, the Estate shall retain a two percent
24 (2%) interest in the Kohl's Litigation – which, if successful, creates the potential benefit of
25 additional monetary recovery to the Estate plus the payment of the debt owed to Browne George
26 Ross LLP, which would reduce the total debt owed by the Estate. If the Sale Motion is not
27 approved, the Trustee does not believe that he will be able to sell the Property at a higher price
28 and there will be a substantial loss to the Estate. In such event, the Estate will not receive
comparable benefit from sale of the Property.

Therefore, the Trustee respectfully submits that, if this Court applies the good business
judgment standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

///

///

///

1 2. The Sale Serves the Best Interest of the Estate and Creditors

2 As noted above, the Trustee has conducted his own independent investigation and
3 believes that it would be in the best interest of the Estate and its creditors to sell the Property in
4 accordance with the proposed terms. The benefits to the Estate, as set forth above, are
5 tremendous due to the funds to be generated from the sale. If the Sale Motion is not approved,
6 the Estate would not receive the sale proceeds and will likely lose the benefits of the current
7 offer. The Trustee does not want to lose this beneficial business opportunity. Thus, the Trustee
8 has made a business decision that it is in the best interest of the creditors of the Estate that this
9 Sale Motion be approved.

10 3. Accurate and Reasonable Notice

11 It is expected that notice of this Sale Motion will satisfy the requirements for accurate
12 and reasonable notice and will be appropriate under the circumstances of this case.

13 The notice requirements for sales are set forth in Federal Rules of Bankruptcy Procedure
14 (“FRBP”) 6004 and FRBP 2002. The notice must include the time and place of any public sale,
15 the terms and conditions of any private sale, the time fixed for filing objections and a general
16 description of the property. FRBP 2002(c)(1).

17 In compliance with FRBP 2002 and 11 U.S.C. § 102(1), the Trustee shall provide notice
18 of the terms and conditions of the proposed private sale of the Property to creditors and parties in
19 interest. The notice of this Sale Motion will include a summary of the terms and conditions of
20 the proposed sale, the time fixed for filing objections, and a general description of the Property,
21 including the Bidding Procedures.

22 Additionally, pursuant to Local Bankruptcy Rule 6004-1(f), an additional copy of the
23 notice and court-approved form F 6004-2, Notice of Sale of Estate Property, will be submitted to
24 the clerk at the time of the filing of this Sale Motion for purposes of publication by the clerk on
25 the court’s website.

26 Therefore, the Trustee submits that the notice requirements will have been satisfied,
27 thereby allowing creditors and parties in interest an opportunity to object to the sale. Hence, no
28 further notice should be necessary.

1 4. The Sale is Made in Good Faith

2 The proposed sale has been brought in good faith and has been negotiated on an “arm’s
3 length” basis.

4 The court, in *Wilde Horse Enterprises*, set forth the factors in considering whether a
5 transaction is in good faith. The court stated:

6 ‘Good faith’ encompasses fair value, and further speaks to the integrity of
7 the transaction. Typical ‘bad faith’ or misconduct, would include
8 collusion between the seller and buyer, or any attempt to take unfair
9 advantage of other potential purchasers. . . . And, with respect to making
such determinations, the court and creditors must be provided with
sufficient information to allow them to take a position on the proposed
sale.

10 *Id.* at 842 (citations omitted).

11 In the present case, the negotiation of the proposed sale was an arms-length transaction.
12 The negotiations with the Buyer resulted in a sale price of \$150,000.00 for the Property that will
13 have substantial benefit to the Estate. As set forth in the notice of the Sale Motion, the creditors
14 will be provided with sufficient notice of the sale. Accordingly, the sale is in good faith and
15 should be approved. The Trustee requests such a finding pursuant to Bankruptcy Code Section
16 363(m).

17 **B. The Proposed Sale of the Property Should be Allowed Free and Clear of Liens**

18 Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate
19 “free and clear of any interest in such property of an entity,” if any one of the following five
20 conditions is met:

- 21 (1) applicable non-bankruptcy law permits a sale of such property free and clear of
22 such interest;
- 23 (2) such entity consents;
- 24 (3) such interest is a lien and the price at which such property is to be sold is greater
than the aggregate value of all liens on such property;
- 25 (4) such interest is in bona fide dispute; or
- 26 (5) such entity could be compelled, in a legal or equitable proceeding, to accept
27 money satisfaction of such interest.

28 11 U.S.C. § 363(f).

1 Section 363(f) is written in the disjunctive and thus only one of the enumerated
2 conditions needs to be satisfied for Court approval to be appropriate. The Trustee is not aware of
3 any liens and encumbrances impacting the Property. Out of an abundance of caution, the Trustee
4 seeks to the sell the Property free and clear of any and all liens and encumbrances. Accordingly,
5 the Trustee seeks to sell the Property under Bankruptcy Code Section 363(f).

6 **C. The Court has the Authority to Waive the Fourteen-Day Stay of Sale**

7 FRBP 6004(h) provides that “[a]n order authorizing the use, sale or lease of property
8 other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless
9 the Court orders otherwise.” FRBP 6004(h).

10 The Trustee desires to close the sale of the Property as soon as practicable after entry of
11 an order approving the sale. Accordingly, the Trustee requests that the Court, in the discretion
12 provided it under FRBP 6004(h), waive the fourteen-day stay requirement.

13 **D. The Court has the Authority to Approve the Bidding Procedures**

14 Implementation of the Bidding Procedures is an action outside of the ordinary course of
15 the business. Bankruptcy Code Section 363(b)(1) provides that a trustee “after notice and
16 hearing, may use, sell or lease, other than in the ordinary course of business, property of the
17 estate.” 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code Section 105(a), “[t]he
18 court may issue any order, process, or judgment that is necessary or appropriate to carry out the
19 provisions of this title.” 11 U.S.C. § 105(a). Thus, pursuant to Bankruptcy Code sections
20 363(b)(1) and 105(a), this Court may authorize the implementation of overbidding procedures.

21 The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a
22 bankruptcy court to issue orders determining the terms and conditions for overbids with respect
23 to a sale of estate assets. *In re Crown Corporation*, 679 F.2d 774 (9th Cir. 1982). The *Crown*
24 *Corporation* court entered an order specifying the minimum consideration required for an
25 overbid as well as the particular contractual terms required to be offered by overbidders. *Id.* at
26 777. The *Crown Corporation* decision also approves an order requiring and setting the amount
27 of potential overbidder’s deposits and authorized courts to determine the disposition of such
28 deposits. *Id.* While the discussion is not extensive, the *Crown Corporation* decision recognizes

1 the authority of bankruptcy courts to order the implementation of bidding procedures such as
2 those proposed in the present case.

3 1. The Overbid Procedures are Untainted by Self-Dealing

4 The Bidding Procedures have been proposed in good faith and have been negotiated on
5 an “arms length” basis. Therefore, there is no prospective taint in dealings between Trustee and
6 any potential bidders.

7 2. The Overbid Procedures Encourage Bidding and are Fair in Amount

8 The Bidding Procedures are designed to encourage, not hamper bidding and are
9 reasonable under the circumstances. The Bidding Procedures are intended to provide potential
10 overbidders with adequate information to make an informed decision as to the amount of their
11 bid and the validity of their bid.

12 3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of the
13 Estate

14 The proposed Bidding Procedures serve the Estate in several ways. First, the Bidding
15 Procedures themselves are fair, reasonable and productive; they will permit the Trustee to
16 conduct an orderly sale and obtain the best possible price on the best possible terms for the
17 Property.

18 The Bidding Procedures will ensure that all bids will be comparable. The Trustee will
19 determine which bid is the highest and best for the Estate. The comparability requirement of the
20 Bidding Procedures will make it possible to accomplish this task.

21 The Bidding Procedures will help the Trustee to obtain the highest and best possible price
22 for the Property. The Bidding Procedures institute minimum overbid increments which the
23 Trustee believes are reasonable. Thus, the Trustee will be able to obtain substantial benefit for
24 this Estate from the sale of the Property from competing bids.

25 ///

26 ///

27 ///

28

1 The Bidding Procedures require that potential bidders demonstrate their capacity to
2 complete the transaction. It would be a serious loss to the Estate if it surrendered its opportunity
3 to sell the Property to one buyer in favor of a competing bidder only to discover the successful
4 bidder incapable of consummating the transaction. Thus, requiring bidders to qualify as
5 qualified bidders will protect the Estate from such a loss.

6 The most important benefit of the Bidding Procedures to the Estate is that their
7 implementation will enable the consummation of the proposed sale. The proposed sale will be
8 the best way to obtain the maximum and most expedient recovery for creditors of this Estate.
9 Implementation of the Bidding Procedures is an essential component of consummating the sale
10 of the Property and maximizing the value of the Property for the Estate and creditors.

11 The Bidding Procedures proposed by the Trustee are fair and provide for a “level playing
12 field” for all prospective bidders with respect to the Property. The proposed Bidding Procedures
13 establish a reasonable but expeditious timeline for allowing the Trustee to give notice of the
14 proposed sale and qualified bidders to conduct reasonable due diligence and submit competing
15 offers for the Property, thereby potentially generating additional value for the Property.
16 Furthermore, the notice that the Trustee proposes to provide to creditors and parties in interest in
17 connection with the Bidding Procedures and Sale Motion is designed to attract the most interest
18 in the acquisition of the Property and is sufficient under the circumstances of this case. Thus,
19 approval of the Bidding Procedures will serve the best interests of the Estate and its creditors.

20 **E. Request for Authorization to Pay Compensation to Special Counsel in Connection**
21 **with Estate Recovery**

22 Bankruptcy Code Section 327 allows, with court approval, for the trustee to employ
23 professional persons, “that do not hold or represent an interest adverse to the estate, and that are
24 disinterested persons.” 11 U.S.C. § 327(a).

25 ///

26 ///

27 ///

28

1 The Trustee employed Shulman Hodges & Bastian LLP (“Special Counsel”) as special
2 counsel to represent the Estate in certain matters, including but not limited to, the liquidation of
3 certain non-exempt assets held by the Debtor. Attached to the Declaration of Howard M.
4 Ehrenberg as **Exhibit “3”** is a true and correct copy of the Order Granting Application and
5 Authorizing the Trustee to Employ Shulman Hodges & Bastian LLP as Special Counsel entered
6 December 19, 2012 (“Employ Order”).

7 Bankruptcy Code Section 328 allows employment of a professional person under section
8 327 “on any reasonable terms and conditions of employment, including on a retainer, on an
9 hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.” 11 U.S.C. § 328(a)
10 (emphasis added).

11 Special Counsel was employed on a 33.33% contingency fee basis of the Gross Recovery.
12 Thus, through this Motion, the Trustee also requests that the Trustee be authorized to pay
13 compensation to Special Counsel as follows:

14 33.33% Contingency Fee based on Gross Recovery of \$150,000.00	\$49,995.00
15 Total:	\$49,995.00

16 As a result of the services performed by Special Counsel, the Estate has recovered
17 considerable value as set forth above. Such results have been beneficial for the Debtor’s Estate
18 and its creditors. However, to date, Special Counsel has received no compensation for the matters
19 that are subject of the sale Motion.

20 The Trustee anticipates holding \$150,000.00 in funds upon the closing of the above
21 transaction. The Trustee shall not distribute any of the contingency fees to Special Counsel until
22 he is in possession of the proceeds from the sale. The payment shall be on an interim basis and
23 subject to final Court approval.

24 ///

25 ///

26 ///

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV. CONCLUSION

For the foregoing reasons, the Trustee respectfully requests that the Court enter an order as follows:

1. That the Sale Motion is granted;
2. Approving the Bidding Procedures set forth above for the sale of the Property.
3. Authorizing the Trustee to sell the Property to the Buyer pursuant to the terms and conditions as set forth in the Agreement attached as **Exhibit "2"** to the Ehrenberg Declaration.
4. Authorizing the sale of the Property free and clear of liens with liens not satisfied through the sale to attach to the sale proceeds in the same validity and priority as prior to the closing of the sale.
5. Authorizing the Trustee to sign any and all documents convenient and necessary in pursuit of the sale as set forth above, including but not limited to, any and all conveyances contemplated by the Agreement attached as **Exhibit "2"** to the Ehrenberg Declaration.
6. A determination by the Court that the Buyer is in good faith pursuant to Bankruptcy Code Section 363(m).
7. Waiving the fourteen (14) day stay of the order approving the sale of the Property under FRBP 6004(h).
8. Authorizing the Trustee to pay compensation on an interim basis to Special Counsel in the total amount of \$49,995.00.
9. For such other and further relief as the Court deems just and proper under the circumstances of this case.

Respectfully submitted,

SHULMAN HODGES & BASTIAN LLP

Dated: August 2, 2013

/s/ Robert E. Huttenhoff

Leonard M. Shulman
Robert E. Huttenhoff
Special Counsel for Howard M. Ehrenberg,
the Chapter 7 Bankruptcy Trustee

DECLARATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF HOWARD M. EHRENBERG

I, Howard M. Ehrenberg, declare and state as follows:

1. I am the Chapter 7 Trustee for the bankruptcy estate (“Estate”) of Nancy Davis (“Debtor”), Case No. 2:11-bk-58593-BR. I have personal knowledge of the facts set forth herein and could, if called as a witness, I could and would competently testify thereto.

2. I make this Declaration in support of my Motion for Order: (1) Approving the Sale of Personal Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code § 353(b)(1) and (f) and Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission; and (3) Granting Related Relief (“Sale Motion”). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Sale Motion.

3. I have read and I am aware of the contents of the Sale Motion and the accompanying Memorandum of Points and Authorities. The facts stated in the Sale Motion and the Memorandum of Points and Authorities are true to the best of my knowledge.

4. I have reviewed the docket for this case which indicates that on November 28, 2011, the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code.

5. The Debtor has a one hundred percent (100%) ownership interest in Peace & Love.

6. Among the documents that were produced by the Debtor in response to the 2004 Order were Profit and Loss Statements for the Debtor for 2007-2011. I am informed that these documents reflect losses in the amount of approximately \$846,330.00 from business operations.

7. The Debtor also produced the balance sheet for Peace & Love dated November 30, 2012 (“Balance Sheet”). Attached hereto as **Exhibit “1”** is a true and correct copy of the November 30, 2012 Balance Sheet, Statement of Income and Expenses and Accounts Payable.

///

///

///

1 8. I am informed that the Balance Sheet lists total current assets of \$172,466.00
2 (\$1,082.00 for accounts receivables and \$156,254.00 for inventory). I am informed from the
3 Debtor that the value of the inventory may be overstated and includes older product that has not
4 sold. By comparison, I am informed that the Balance Sheet lists total liabilities at \$303,539.00,
5 including \$220,000.00 owed to legal counsel. Based on the November 30, 2012 Balance Sheet, I
6 am informed that the liabilities greatly exceed the assets.

7 9. Among the assets of Peace & Love is trademark infringement litigation entitled
8 Peace & Love Jewelry by Nancy Davis v. Kohl's Department Store, Case No. 10-0417 pending in
9 the United States District Court, Central District of California ("Kohl's Litigation"). Through my
10 Special Counsel, I have investigated the merits of this litigation and potential benefit to the Estate
11 based on the potential success in that litigation. I have also learned that Peace & Love's former
12 legal counsel, Browne George Ross LLP, served the parties with a Notice of Attorney Lien based
13 on the firm's outstanding debt of approximately \$220,000.00. As such, I am informed that any
14 recovery from the Kohl's Litigation would potentially be subject to the claim of Browne George
15 Ross LLP before any payment is received by Peace & Love.

16 10. I have received an offer from Nancy Davis to purchase the Estate's interest in
17 Peace & Love for a cash offer of \$150,000.00 plus additional consideration, including a two
18 percent (2%) interest in any recovery from the Kohl's Litigation. Attached hereto as **Exhibit "2"**
19 is a true and correct copy of the Asset Purchase Agreement.

20 11. I am seeking to sell the Estate's interest in the Property free and clear of all liens,
21 claims, and encumbrances and subject to the Bidding Procedures described in the Sale Motion out
22 of an abundance of caution. I am not aware of any liens that exist against the Property.

23 12. I am informed that the sale of the Property in accordance with the terms of the
24 Asset Purchase Agreement is in the best interest of the Estate.

25 13. I am informed that the proposed sale has been brought in good faith and has been
26 negotiated on an "arm's length" basis.

27 ///

28 ///

1 14. For the reasons set forth in the Sale Motion and this Declaration, I respectfully
2 request that the Court grant the Sale Motion so that I do not lose this favorable business
3 opportunity to net a substantial amount of money for the Estate.

4 15. Through the Sale Motion I am also seeking authorized to pay compensation to
5 Special Counsel in the amount of \$49,995.00.

6 16. On behalf of the Estate and pursuant to Court order, I retained Shulman Hodges &
7 Bastian LLP ("Special Counsel") as special counsel to represent the Estate in certain matters,
8 including but not limited to, the liquidation of certain non-exempt assets held by the Debtor.
9 Attached hereto as **Exhibit "3"** is a true and correct copy of the Order Granting Application and
10 Authorizing the Trustee to Employ Shulman Hodges & Bastian LLP as Special Counsel entered
11 December 19, 2012 ("Employ Order").

12 17. The terms of the retention were approved at 33.33% contingency fee basis of the
13 Gross Recovery.

14 18. Upon closing of the sale, I anticipate holding \$150,000.00 in funds upon the
15 closing of the above transaction.

16 19. As such, upon closing of the sale I request that the Court authorize me to pay
17 Special Counsel the contingency fee owed in the amount of \$49,995.00.

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

20 Executed on ^{July}~~August~~ 31, 2013, at Los Angeles, California.

21
22 
Howard M. Ehrenberg

EXHIBIT 1

PEACE & LOVE JEWELRY BY NANCY DAVIS
BALANCE SHEET
NOVEMEBR 30, 2012

ASSETS

CURRENT ASSETS

Checking - CNB	\$1,811
Accounts receivable	1,082
Inventory	156,254

TOTAL CURRENT ASSETS 159,147

PROPERTY AND EQUIPMENT

Computers and equipment	4,495
Copyright costs	384
Display cases	1,181
Organization and start up costs	16,156
Trademark costs	17,861
Total	40,077
Less: Accumulated depreciation	(29,948)

NET PROPERTY AND EQUIPMENT 10,129

OTHER ASSETS

Security deposit	3,190
TOTAL OTHER ASSETS	<u>3,190</u>

TOTAL ASSETS \$172,466

LIABILITIES & EQUITY

LIABILITIES

CURRENT LIABILITIES

Accounts payable	\$269,032
Due to Nancy Davis	291,915
Sales tax payable	348

TOTAL CURRENT LIABILITIES 561,295

TOTAL LIABILITIES 561,295

EQUITY

Members equity	547,871
Retained earnings	(578,404)
Net income(loss)	(358,296)
TOTAL EQUITY	<u>(388,829)</u>

TOTAL LIABILITIES & EQUITY \$172,466

PEACE & LOVE JEWELRY BY NANCY DAVIS
STATEMENT OF INCOME AND EXPENSES
JANUARY THROUGH NOVEMBER 30, 2012

INCOME	
TOTAL INCOME	\$17,675
Cost of goods sold	<u>7,070</u>
GROSS PROFIT	<u>10,605</u>
OPERATING EXPENSES	
Accounting	6,600
Automobile expense	98
Bad debt	122
Bank charges	569
Computer expense	188
Consulting	322
Insurance - general liability	2,221
Workmen's compensation	1,005
Legal fees	221,993
Merchant fees	1,373
Office expense/supplies	1,162
Outside services	1,500
Parking	30
Payroll expenses	5,301
Payroll service fee	1,968
Payroll taxes	21
Penalties	51
Postage and shipping	2,443
Printing/reproduction	860
Taxes - State	800
Telephone	1,134
Wages	<u>64,167</u>
TOTAL OPERATING EXPENSES	<u>313,928</u>
NET ORDINARY INCOME	(303,323)
OTHER INCOME/EXPENSE	
OTHER EXPENSES	
Inventory write down	<u>54,973</u>
TOTAL OTHER EXPENSES	<u>54,973</u>
NET OTHER INCOME/EXPENSES	<u>54,973</u>
NET INCOME (LOSS)	<u>(\$358,296)</u>

PEACE & LOVE JEWELRY BY NANCY DAVIS
ACCOUNTS PAYABLE
AS OF NOVEMBER 30, 2012

Boroda Holm, APC CPA's	\$600
Browne Woods George, LLP	220,000
Kenneth Rickel	10,879
Lewitt Hackman Shapiro Marshall & Harlan	21,401
Quality Gold, Inc.	16,151
Total	<u>\$269,032</u>

12:31 PM
12/04/12

peace and love jewelry by nancy davis llc
Item Listing

Description	December 3, 2012 Cost	Quantity On Hand	TOTAL
5CBCD-5 Charm Bracelet with Cross and Star of David-8.2g	150.00	1	150.00
FLB- Fleur-de-lis Bangle / .22ct	250.00	6	1500.00
SHB- Small Heart Bangle / .16ct	275.00	1	275.00
RCB- Royal Crown Bangle / .18ct	350.00	4	1400.00
SLBB- Small Lady Bug Bangle // .50ct	400.00	1	400.00
SPBY- Small Peace Bangle yellow gold	300.00	1	300.00
RCBY- Royal Crown Bangle Yellow Gold	350.00	1	350.00
FLBY- Fleur-de-lis Bangle Yellow Gold	250.00	2	500.00
WGPB- White Gold Plain Bangle	100.00	8	800.00
ECD- Elephant Cufflinks-7g/38d/0.38c	350.00	1	350.00
PC- Peace Sign Cufflinks with no Stone-7g	200.00	3	600.00
PCD- Peace Sign Cufflinks with Diamonds-7.2g/20d/0.10c	275.00	3	825.00
SDCD- Star of David Cufflinks-4.7g/82d/0.41c	350.00	1	350.00
RCHC- Royal Crown Cufflink // .90ct	750.00	1	750.00
MOTHC- Medium Heart Sign Dog Tag-8.7g/28d/0.14c	275.00	3	825.00
MOTPC- Medium Peace Sign Dog Tag-8.7g/28d/0.14c	275.00	2	550.00
3HED- Triple Heart/Peace Sign Dangling Earrings-8.2g/114d	450.00	2	900.00
HEDLBM- Medium Heart/Peace Sign Earrings on Lever Back	220.00	1	220.00
HEDOBM- Medium Heart/Peace Sign Earrings on Omega Back	350.00	1	350.00
HEDPM- Medium Heart/Peace Sign Earrings on Post Back	250.00	1	250.00
HEDLS- Small Heart Earrings on Lever Backs-1.99g/38d/0.10c	150.00	1	150.00
HEDPS- Small Heart Earrings on Post Backs-2g/36d/0.18c	90.00	4	350.00
PEPS- Small Peace Sign Earrings on Post Backs with no Stone	250.00	5	1250.00
HIHDE- Heart in Heart Diamond Earrings on Omega Backs	1,750.00	1	1750.00
4HE- 4 Heart Earrings (Medium Heart and 3 Small Hearts)-1.99g	1,750.00	1	1750.00
H9D3CE- Heart 9 Diamond with 3 Circle Earrings-24.8g/25d/0.59ct	2,000.00	1	2000.00
HBSKE- Heart and Bow Kite Shaped Earrings-12.9g/216d/0.59ct	1,500.00	1	1500.00
AHBE14D- Antique Heart and Bow Earrings with 14 Diamonds	2,100.00	1	2100.00
AHBE14W- Antique Heart and Bow Earrings with Lattice Work	2,000.00	1	2000.00
2BE- 2 Bow Earrings-4.5g/86d/1.03c	1,000.00	1	1000.00
4BE- 4 Bow Earrings-10.9g/154d/1.43c	1,350.00	1	1350.00
3BE- 3 Bow Earrings-8.5g/114d/1.02c	1,100.00	1	1100.00
4LCHE - 4 Leaf Clover Heart w/4 Diamond Drop Earring	750.00	1	750.00
S4LCELB- Small 4 Leaf Clover Earring on Lever Back	500.00	3	1500.00
LCDE- Lotus Circle Diamond Earring // 2.14ct	550.00	1	550.00
SHLDE- Small Heart Lotus Drop Earring // 2.04ct	500.00	5	2500.00
LDS- Lotus Diamond Stud // 1.31ct	750.00	1	750.00
FELB- Fleur-de-lis Earring on Lever Back	500.00	1	500.00
FICE- Fleur-de-lis in 1 Circle Earring // 106 d'as 0.59ct	750.00	1	750.00
MHHC- 18k White Gold Medium Hoop with Heart Charm	1,000.00	1	1000.00
SRCLBE - Small Royal Crown Lever Back Earring // 80 d'as	600.00	1	600.00
SRCPE- Small Royal Crown Post Earring // 80 d'as, 0.42ct	600.00	1	600.00
SFCPE- 18k White Gold Small Fleur-de-lis in Circle Post Earring	350.00	1	350.00
HEDLBY- Medium Heart/Peace Sign Earring on Lever Back	300.00	3	900.00
ATDE- Aquamarine Tassels Drop Earrings with 7 Tassels Medium	750.00	1	750.00
3CC3C- 3 Circle Chandelier with 3 Color on Omega Backs-	900.00	1	900.00

12:31 PM
12/04/12

peace and love jewelry by nancy davis llc
Item Listing

Description	December 3, 2012 Cost	Quantity On Hand	TOTAL
HPRPD- Heart Peace with Pink Sapphire and Diamonds	400.00	1	400.00
MHR-Mini Heart Ring-8.55g/1.18d/0.59c	450.00	1	450.00
MPLR-Peace and Love Ring-7.2g/1.26d/0.63c	750.00	1	750.00
PSMR-Pink Sapphire Micro Ring / /	1,500.00	2	3000.00
4LCHR - 4 Leaf Clover Heart Ring	500.00	2	1000.00
KPSR- Kunzite Pear Shape Ring	1,550.00	1	1550.00
APSR- Aquamarine Pear Shape Ring	1,600.00	1	1600.00
LBR- Lady Bug Ring with pink sapphire	750.00	1	750.00
RCHR- Royal Crown Heart Ring // 67 dias, 0.50ct	700.00	4	2800.00
LDR-18k White Gold Lotus Diamond Ring //8 dias, 0.77ct	750.00	2	1500.00
CFLR-Fleur de-lis Circle Ring // 83 dias .46ct	600.00	2	1200.00
CHR- Heart in 1 Circle Ring // 103 dias 0.49ct	700.00	5	3500.00
4SHBSCR- 4 Small Heart Blue Sapphire and Citrine Diamonds	1,100.00	2	2200.00
4SHPSR- 4 Small Heart Pink Sapphire and White Topaz Rings	1,000.00	2	2000.00
SICR- 18k White Gold Star in Circle Ring // 106 dias, 0.85ct	750.00	1	750.00
HPRDY- Heart Peace Ring with Diamonds Yellow Gold //	350.00	1	350.00
MPLRY- Peace and Love Ring Yellow Gold	500.00	1	500.00
GXMTR-Christmas Tree Pin Red-4.5g/56d/0.28c	125.00	2	250.00
GXMTG-Christmas Tree Pin Green-4.5g/56d/0.28c	125.00	4	500.00
DCT-Diamond Christmas Tree-6.2g/68d/0.34c	150.00	2	300.00
			\$ 156,254.00

Peace & Love Jewelry Boutique
Inventory List- Silver Jewelry with cubic zirconia

Item	QUANTITY	COST	TOTAL		
QND132-circle heart ring	14	\$40.00	560.00		
QND129-blue/yellow ring	9	\$32.50	292.50		
QND150-pink sapp ring	9	\$32.50	292.50		
QND118-heart/peace ring	28	\$15.50	434.00		
QND124-puff heart ring	6	\$23.75	142.50		
Qnd138-lady bug ring	4	\$26.25	105.00		
QND102-Med heart earring	60	\$16.75	1005.00		
QND104-Med Heart earring-brass	16	\$16.75	268.00		
QND142-Lady bug earring	6	\$33.75	202.50		
QND107-Crown earring	12	\$24.00	288.00		
QND105-small heart earring	8	\$16.25	130.00		
QND141-topaz drop earring	4	\$42.00	168.00		
QND106-hoop with heart charm	15	\$38.00	570.00		
QND147-dia/heart bracelet	6	\$67.00	402.00		
QND109-Med heart pend	38	\$14.50	551.00		
QND139-Double heart pend	8	\$24.50	196.00		
QND110-Large heart pend	113	\$24.25	2740.25		
QND116-lady bud pend	9	\$25.00	225.00		
QND112-large hear pend-brass	17	\$24.25	412.25		
QND144-floating heart pend	9	\$24.25	218.25		
QND145-double circle crown pend	6	\$82.00	492.00		
PCN10-Pearl Charm Necklace	36	\$17.50	630.00		
SPHCN-Peace Sign Necklace	2	\$12.50	25.00		
BPHCN-Peace Sign Necklace-Brass	4	\$12.50	50.00		
Haert Link Bracelet	21	\$32.00	672.00		
Enamel Bracelets					
Hearts/stripes					
WHITE	2	\$12.00	24.00		
PINK	11	\$12.00	132.00		
BLACK	17	\$12.00	204.00		
ORANGE	72	\$12.00	864.00		
Hearts/Crowns					
BLACK	19	\$12.00	228.00		
ORANGE	32	\$12.00	384.00		

12907.75

EXHIBIT 2

PURCHASE AGREEMENT

This Purchase Agreement (the "Agreement") is made as of July ___, 2013, by and between the Nancy Sue Davis ("Buyer" and "Debtor") and Howard M. Ehrenberg, solely in his capacity as Chapter 7 Trustee of the bankruptcy estate ("Estate") of Nancy Sue Davis.

RECITALS

A. On November 28, 2011 ("Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 7 of United States Bankruptcy Code in the United States Bankruptcy Court for the Central District of California, Los Angeles Division ("Bankruptcy Court") as Case No. 2:11-bk-58593-BR ("Davis Bankruptcy Case").

B. Howard M. Ehrenberg is the duly appointed, qualified and acting Chapter 7 Trustee for the Debtor's Estate ("Trustee" or "Seller").

C. The Debtor has a one hundred percent (100%) ownership interest in Peace & Love Jewelry by Nancy Davis, LLC, a California limited liability company ("Peace & Love").

D. Among the assets of Peace & Love is trademark infringement litigation entitled Peace & Love Jewelry by Nancy Davis v. Kohl's Department Store, Case No. 10-0417 pending in the United States District Court, Central District of California ("Kohl's Litigation").

E. Seller, as Chapter 7 Trustee, desires to sell to Purchaser, and Purchaser desires to purchase from Seller, the Estate's membership interest in Peace & Love (collectively, the "Membership Interest"), subject to the terms and conditions set forth in this Agreement.

F. Seller desires to sell, and Buyer desires to purchase, the Membership Interest pursuant to the terms and conditions of this Agreement.

G. The Membership Interest will be sold subject to any and all existing liens and/or encumbrances that may exist against the Membership Interest and/or subject to all the outstanding liabilities owed Peace & Love to its creditors. The Buyer acknowledges that Buyer has conducted its own due diligence regarding potential liens, encumbrances and/or outstanding liabilities owed by Peace & Love to its creditors.

H. Pursuant to 11 U.S.C. Section 363, the Trustee and/or his attorneys will seek a Court Order authorizing the sale of the Membership Interest.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby subject to Bankruptcy Court approval, Seller and Purchaser hereby agree as follows:

///

1. **Purchase and Sale.**

1.1 **Agreement to Purchase.** Subject to the terms and conditions of this Agreement, Purchaser agrees to purchase at the Closing (as defined herein), and Seller agrees to sell to Purchaser at the Closing, for the purchase price set forth in Section 1.2 below and additional consideration set forth in Section 1.4, the Membership Interest, on an **“AS IS - WHERE IS” basis without representations or warranties of any kind, express or implied, being given by the Trustee, concerning the value, condition or fitness of purpose for any use thereof, subject to all to any and all liens and encumbrances that may exist against the Membership Interest and claims and and/or subject to all the outstanding liabilities owed by Peace & Love to its creditors (collectively the “Liens and Claims”)**.

1.2 **Purchase Price.** The purchase price for the Membership Interest being sold pursuant to Section 1.1 above shall be One Hundred and Fifty Thousand Dollars (\$150,000.00) (the **“Purchase Price”**). The Purchase Price shall be paid in Good Funds (as defined herein), and shall be payable to “Howard M. Ehrenberg, in his capacity as Chapter 7 Trustee” as follows:

(a) Concurrently with the mutual execution and delivery of this Agreement (the date of such mutual execution and delivery is referred to herein as the **“Execution Date”**), Purchaser shall deposit the sum of Twenty-Five Thousand Dollars (\$25,000.00) (**“Purchaser’s Deposit”**) with the Trustee. At the Closing, Purchaser’s Deposit shall be credited toward payment of the Purchase Price. If the Closing does not occur, the Deposit shall either be retained by the Seller or returned to the Buyer in accordance with the provisions of this Agreement regarding termination.

(b) No later than one (1) day prior to the Closing Date, Purchaser shall deliver to Escrow Holder, in Good Funds, the Purchase Price less Purchaser’s Deposit. For purposes of this Agreement, **“Good Funds”** shall mean immediately available funds in the form of cash or wire transfer of funds.

1.3 **Transfer of Membership Interest Subject to Liens and Encumbrances:** The Seller will transfer the Membership Interest subject to any and all Liens and Claims, with any and all Liens and Claims not released prior to close of Escrow or satisfied through Escrow, if any, to attach to the Membership Interest transferred to the Seller. The Trustee is not aware of any Lien and Claims attaching to the Membership Interest, but seeks to sell the Membership Interest subject to all Liens and Claims out of an abundance of caution. The Buyer acknowledges it is purchasing the Membership Interest subject to any and all Liens and Claims and that the Membership Interest will be conveyed to the Buyer subject to any the public recordings impacting the Membership Interest.

1.4. **Additional Consideration - Interest in Any Potential Recovery from Kohl’s Litigation.** In addition to the Purchase Price referenced in Section 1.2., the Estate shall also be entitled to two percent (2%) of any net recovery in the Kohl’s Litigation. For the purposes of this Agreement, “net recovery” shall mean the amount of any recovery Peace & Love receives in the Kohl’s Litigation (either by settlement or judgment) after payment of legal fees, costs from litigation and/or any liens that exist with regard to the Kohl’s Litigation. However, Peace & Love shall have no duty to pursue the litigation and can exercise its right to settle the litigation with Kohl’s at its own discretion.

2. **Closing; Deliveries at the Closing.**

2.1 Closing. The closing of the purchase and sale of the Membership Interest as contemplated by this Agreement (referred to throughout this Agreement as the "Closing") shall take place at the offices of Shulman Hodges & Bastian LLP located at 8105 Irvine Center Drive, Suite 600, Irvine, California. The Closing shall be held within ten (10) days after the Bankruptcy Court enters an order approving the sale of the Membership Interest unless otherwise approved by the Bankruptcy Trustee (referred to throughout this Agreement as the "Closing Date").

2.2 Deliveries at the Closing.

(a) Deliveries by Purchaser. No later than one (1) day prior to the Closing Date, Purchaser shall deliver, or cause to be delivered to the Trustee, in Good Funds, the Purchase Price less Purchaser's Deposit.

(b) Deliveries by Seller. Purchaser acknowledges that she is in possession of all books, records, inventory and bank accounts for Peace & Love. As such, upon the Closing Date, Seller shall have no obligation to deliver anything to Purchaser.

3. **Bankruptcy Covenants.**

3.1 Entry of Sale Approval Order. No later than two (2) business days after execution of this Agreement by the parties hereto, Seller shall file a motion reasonably acceptable to Purchaser (the "Sale Motion") with the Bankruptcy Court seeking entry of an order in form and substance satisfactory to Purchaser which shall contain, without limitation, the following provisions (the "Sale Approval Order"):

(a) approving the terms and conditions of this Agreement and the sale of the Membership Interest to Purchaser;

(b) finding that the Purchase Price and additional consideration set forth in Section 1.4 constitutes fair value for the Membership Interest;

(c) finding that notice of the transactions contemplated hereby and of the terms of this Agreement was good and sufficient and was provided timely to all creditors and parties-in-interest, including, without limitation, any and all creditors holding liens or encumbrances on the Membership Interest;

(d) authorizing and directing Seller to consummate the transactions contemplated by this Agreement and to comply in all respects with the terms of this Agreement;

(e) finding that the transactions contemplated by this Agreement were negotiated at arm's length, that Purchaser acted in good faith in all respects, and that Purchaser is entitled to the protections of Section 363(m) of the Bankruptcy Code; and

(f) finding that the sale of the Membership Interest to Purchaser and the transfer of the Membership Interest to Purchaser shall be free of any sale, stamp or transfer taxes, or, to the extent any such taxes are payable.

3.2 Subject to Bankruptcy Court Approval. Seller shall use its best efforts to cause the Bankruptcy Court to enter the Sale Approval Order. The Agreement is expressly contingent upon the Seller obtaining Bankruptcy Court approval of the sale of the Property with a finding that Purchaser is in good faith pursuant to Bankruptcy Code section 363(m). The Seller makes no warranties, either express or implied, as to his ability to obtain approval of the Bankruptcy Court and entry of a Sale Approval Order, and in the event that the Seller is unable to obtain said approval and Sale Approval Order, Purchaser and its officers, directors, shareholders, agents, successors and assigns shall hold Seller and its attorneys and agents harmless from any and all damages which Purchaser may allege it has suffered as a result therefrom. Purchaser's Deposit shall be immediately refunded in the event such approval is not obtained.

3.3 Bidding Procedures: The sale of the Membership Interest shall be subject to the following bidding procedures:

(a) The potential over bidders must bid an initial amount of at least Fifteen Thousand Dollars (\$15,000.00) over the purchase price offered for the Membership Interest by the Buyer. Minimum bid increments thereafter shall be Five Thousand Dollars (\$5,000.00).

(b) Overbids must be in writing and be received by the Trustee and the Trustee's counsel, Shulman Hodges & Bastian LLP to the attention of Robert E. Huttenhoff, on or before 4:00 p.m. (California time) on the date which is one week prior to the hearing on the motion by the Trustee to the Bankruptcy Court for approval of the Agreement and sale of the Membership Interest ("Sale Motion").

(c) Overbids must be accompanied by a deposit ("Overbid Deposit") in the form of certified funds in the amount of at least **Twenty-Five Thousand Dollars (\$25,000.00)** payable to "Howard M. Ehrenberg, Chapter 7 Trustee for the Bankruptcy Estate of Nancy Sue Davis."

(d) The over bidder must also provide evidence satisfactory to the Trustee of having sufficient specifically committed funds to complete the transaction or a lending commitment for the bid amount and such other documentation relevant to the bidder's ability to qualify as the purchaser of Membership Interest and ability to close the sale and immediately and unconditionally pay the winning bid purchase price at closing.

(e) The over bidder must seek to acquire the Membership Interest on terms and conditions not less favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase the Membership Interest, including but not limited to all bids shall be non-contingent and closing on the Transaction in the same time parameters as the Buyer. For the purposes of bidding, all-cash consideration shall be favored by the Trustee.

(f) All competing bids must acknowledge that the bidder is purchasing the Membership Interest from the Seller on an "AS IS - WHERE IS" basis without representations or warranties of any kind, express or implied, being given by the Seller, concerning the value, condition or fitness of purpose for any use thereof. The competing bid must acknowledge that it is aware that the Membership Interest may be complicated by pending litigation. The competing bid must represent and warrant that the bidder is purchasing the Purchase Interest as a result of its own investigations and is not buying the Membership Interest pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction or on behalf of the Seller. The competing bid must acknowledge that the bidder has inspected the Membership Interest, and upon Bankruptcy Court approval of the competing bid Agreement, the competing bidder forever waives, for itself, and its successors and assigns, any and all claims against the Estate, Howard M. Ehrenberg, as the Trustee of the Estate and in his individual capacity, and his attorneys, agents, and employees, arising or which might otherwise arise in the future concerning the Membership Interest.

(g) If overbids are received, the final bidding round for the Membership Interest shall be held at the hearing on the Sale Motion in order to allow all potential bidders the opportunity to overbid and purchase the Membership Interest. At the final bidding round to be conducted before the Court, the Trustee will seek entry of an order, inter alia, authorizing and approving the sale of the Membership Interest to the bidder who the Trustee, in the exercise of his business judgment, may determine to have made the highest and best offer to purchase the Membership Interest, consistent with the Bidding Procedures ("Successful Bidder"). The hearing on the Sale Motion may be adjourned or rescheduled without notice other than by an announcement of the adjourned date at the hearing on the Sale Motion.

(h) At the hearing on the Sale Motion, the Trustee will seek entry of an order, inter alia, authorizing and approving the sale of the Membership Interest to the Successful Bidder.

(i) In the event Successful Bidder fails to close on the sale of the Membership Interest within the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's Overbid Deposit and will be released from his obligation to sell the Membership Interest to the Successful Bidder and the Trustee may then sell the Membership Interest to the first back-up bidder approved by the Court at the hearing on the Sale Motion ("First Back-Up Bidder").

(j) In the event First Back-Up Bidder fails to close on the sale of the Membership Interest within the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's Overbid Deposit and will be released from his obligation to sell the Membership Interest to the First Back-Up Bidder and the Trustee may then sell the Membership Interest to the second back-up bidder approved by the Court at the hearing on the Sale Motion ("Second Back-Up Bidder").

4. **Representations and Warranties of Seller.** Seller hereby represents and warrants to Purchaser that the following are true and correct as of the date hereof and will be true as of the Closing (except as otherwise specifically and expressly permitted under this Agreement).

4.1 **Authorization.** Subject to the Bankruptcy Court approval of this Agreement and all other documents to be executed by Seller and delivered to Purchaser prior to or at the Closing, Seller has full

power and authority to enter into this Agreement and has duly authorized, executed and delivered the same. The Agreement, when executed and delivered by Seller, will constitute valid and legally binding obligations of Seller, enforceable in accordance with their terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally, or (b) as limited by laws relating to the availability of a specific performance, injunctive relief, or other equitable remedies.

5. **Representations and Warranties of the Purchaser.** Purchaser hereby represents and warrants to Seller that:

5.1 **Authorization.** Purchaser has full power and authority to enter into this Agreement and has duly authorized, executed and delivered the same. The Agreement, when executed and delivered by Purchaser, will constitute valid and legally binding obligations of the Purchaser, enforceable in accordance with their terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, and any other laws of general application affecting enforcement of creditors' rights generally, or (b) as limited by laws relating to the availability of a specific performance, injunctive relief, or other equitable remedies.

5.2 **Satisfactory Due Diligence.** Purchaser is a current existing member of Peace & Love , and is familiar with and has knowledge of each of the Companies' business, management and financial affairs and has had an opportunity to review same. Purchaser is not relying on any representations and warranties of Seller (except as provided herein), whether oral or written, and has acknowledged that it has satisfied itself with its due diligence review of each of the Companies.

6. **Conditions to the Obligations of Purchaser.** The obligations of Purchaser to Seller under this Agreement are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

6.1 **Representations and Warranties.** The limited representations and warranties of Seller contained in Section 4 above, shall be true and correct on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the date of the Closing.

6.2 **Performance.** All covenants, agreements and conditions contained in this Agreement to be performed by Seller on or prior to the Closing shall have been performed or complied with in all material respects.

6.3 **Bankruptcy Court Approval.** Entry of a Sale Approval Order by the Bankruptcy Court.

7. **Conditions to the Obligations of Seller.** The obligations of Seller to Purchaser under this Agreement are subject to the fulfillment, on or before the Closing, of each of the following conditions, unless otherwise waived:

7.1 **Representations and Warranties.** The representations and warranties of Purchaser contained in Section 5 shall be true and correct in all material respects on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

7.2 Performance. All covenants, agreements and conditions contained in this Agreement to be performed by Purchaser on or prior to the Closing shall have been performed or complied with in all material respects.

7.3 Bankruptcy Court Approval. Entry of a Sale Approval Order by the Bankruptcy Court.

7.4 Payment of Purchase Price. Purchaser shall deliver the Purchase Price in Good Funds as set forth in Section 1.2 of this Agreement.

8. Miscellaneous.

8.1 As Is/Where Is. The Seller shall sell, transfer, convey and deliver to Buyer the Property on an "As Is" and "Where Is" basis, without any representations or warranties of any kind, except as expressly set forth herein.

8.2 Waiver. Buyer hereby acknowledges and waives any and all claims, warranties, guarantees, refunds, causes of action, rights of recovery, rights of set-off and rights of recoupment of every kind and nature and interests in the Property being sold to Buyer pursuant to this Agreement; and the Purchase Price shall not be subject to any offset, decrease, reductions, deductions, or counterclaim of any kind or nature whatsoever.

8.3 Additional Agreements; Reasonable Efforts. Subject to the terms and conditions of this Agreement, the Parties agree to use all commercially reasonable efforts to take, or cause to be taken, action and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including cooperating fully with the other Party and providing to the other Party any information reasonably required. In case at any time after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement, the Parties shall take all such necessary action.

8.4 Expenses. Except as set forth to the contrary in this Agreement, each of the Parties hereto shall be responsible for its own fees and expenses, including, but not limited to, fees and expenses with respect to the engagement of outside accountants and attorneys, incurred by it in connection with this Agreement and the transactions contemplated with respect to this Agreement.

8.5 Entire Agreement; Amendments. This Agreement, and the documents referred to herein constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and any and all other written or oral agreements relating to the subject matter hereof existing between the parties hereto are expressly canceled.

8.6 Headings. Section headings contained herein are for reference purposes only and shall not affect in any manner the meaning or interpretation of this Agreement.

8.7 Counterparts. This Agreement may be executed in any number of original, fax or copied counterparts, and all counterparts shall be considered together as one agreement. A faxed or copied counterpart shall have the same force and effect as an original signed counterpart. Each of the Parties hereby expressly forever waives any and all rights to raise the use of a fax machine to deliver a

signature, or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a fax machine, as a defense to the formation of a contract.

8.8 Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement or any other such instrument.

8.9 Attorneys' Fees. If any legal action is brought for the enforcement of this Agreement or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, each party shall bear their own legal costs and expenses, and the prevailing party shall not be entitled to an award of its fees from the other party.

8.10 Governing Law. This Agreement is to be governed by and construed in accordance with federal bankruptcy law, to the extent applicable, and where state law is implicated, the laws of the State of California shall govern, without giving effect to principles of conflicts of law.

8.11 Jurisdiction of the Bankruptcy Court. Any and all disputes which involve in any manner the Estate or the Trustee, arising from the Agreement or relating in any manner to the Property, shall be resolved only in the United States Bankruptcy Court, Central District of California, Los Angeles division.

8.12 Knowing and Voluntary Agreement. Each Party hereto acknowledges that it has entered into this Agreement knowingly and voluntarily of its own free will and under no duress of any nature.

8.13 Survival of Warranties. Unless otherwise set forth in this Agreement, the warranties, representations and covenants of Seller and Purchaser contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing.

8.14 Assignment; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Except as herein provided, no party may assign any of its rights, or delegate any of its duties or obligations (by operation of law or otherwise), under this Agreement without the prior written consent of the other party, and any such purported assignment or delegation shall be void *ab initio*; provided, however, that Purchaser may assign to one or more affiliated entities all or any portion of its rights to purchase the Membership Interest under this Agreement, without the prior consent of Seller or any other person.

8.15 Amendments and Waivers. Any term of this Agreement may be amended or waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the parties hereto.

///

9. **Termination.**

9.1 **Termination:** Upon any termination of this Agreement, the sale for the purchase of the Membership Interest shall be cancelled, all instruments shall be returned to the respective parties who executed the same and neither party shall any further obligation to the other as to the Membership Interest except as otherwise set forth in this Agreement. This Agreement may be terminated as follows:

(a) **By Seller:** Seller may terminate this Agreement by giving written notice to Buyer at any time prior to the Closing in the event the Buyer is in breach of any representation, warranty or covenant contained in this Agreement in any material respect or is otherwise unable to fulfill its conditions to the Closing, it being understood and agreed that TIME SHALL BE OF THE ESSENCE with respect to the performance of Buyer's obligations hereunder; provided that, any such breach by Buyer shall trigger an obligation by the Seller to provide prompt notice to the Buyer of the alleged breach (to the extent that the Seller is aware thereof and to the extent that any such alleged breach is curable), including a detailed description of the facts and circumstances giving rise to such alleged breach, and the Buyer shall have a period of fifteen days following receipt of such notice to cure the alleged breach (but in any event to have been completed no later than the day preceding the Closing Date).

(b) **By Seller:** If the Seller is unable to obtain Bankruptcy Court approval of this Agreement, or because of unknown defects in the title, or because the liens and encumbrances exceed the amounts known to the Trustee, or by being divested of title by the Bankruptcy Court, or because the income tax consequences of the sale are excessive.

(c) **By Buyer and Seller by Mutual Consent:** Buyer and Seller may terminate this Agreement by mutual written consent at any time prior to the Closing.

(d) **Buyer or Seller:** Buyer or Seller may terminate this Agreement if the Final Order approving this Agreement has not been entered on or before six months days after th date of execution of this Agreement ("Sale Order Deadline"), or such Final Order remains stayed on such date or has been modified or reversed on appeal.

9.2 **Notification:** The rights of termination provided herein shall be exercised by written notice of termination given by the terminating party to the other party in the manner provided below for Notices. Should the termination of this Agreement be as a result of any election permitted under this Agreement by either party (and provided the terminating party is not otherwise in default hereunder) the Deposit shall be returned to the Buyer. In the event that the Buyer is the terminating party and the Buyer is in default under this Agreement, the Seller shall retain the Buyer's Deposit without any deduction.

///

///

9.3 Liquidated Damages to the Seller on the Buyer's Default: In the event the transaction contemplated under this Agreement does not close by reason of the Buyer's breach or default, the Parties acknowledge that it would be difficult or impossible to quantify damages arising from the Buyer's breach or default. **By placing their initials in the following spaces provided, the Buyer _____ and the Seller _____** hereby agree that the Seller surrenders Seller's right to any remedies or damages the Seller may have against the Buyer and instead shall retain as liquidated damages, the deposit made by the Buyer. Specifically, the Seller shall retain the **Twenty-Five Thousand Dollars (\$25,000.00)** Deposit. The Seller shall be entitled to the liquidated damages and released from his obligation to sell the Assets to the Buyer upon the failure of the Buyer to close the sale within the time parameters established herein, or upon the failure of the Buyer to perform any requirement established herein within the said time parameters.

The parties have executed this Agreement as of the date first written above.

SELLER:

Dated: _____

Howard M. Ehrenberg, Chapter 7 Trustee for the
bankruptcy estate of Nancy Sue Davis

PURCHASER:

Dated: _____

Nancy Sue Davis

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

APPROVED AS TO FORM AND CONTENT:

SHULMAN HODGES & BASTIAN LLP

Dated: _____

Leonard M. Shulman
Robert E. Huttenhoff
Attorneys for Howard M. Ehrenberg
Chapter 7 Trustee for the bankruptcy estate of
Nancy Sue Davis

HAVKIN & SHRAGO

Dated: _____

Stella Havkin
Attorneys for Nancy Sue Davis

EXHIBIT 3

1 Leonard M. Shulman - Bar No. 126349
Robert E. Huttenhoff – Bar No. 214447
2 **SHULMAN HODGES & BASTIAN LLP**
8105 Irvine Center Drive, Suite 600
3 Irvine, California 92618
Telephone: (949) 340-3400
4 Facsimile: (949) 340-3000
Email: lshulman@shbllp.com; rhuttenhoff@shbllp.com
5



6 Proposed Special Counsel for Howard M. Ehrenberg,
the Chapter 7 Bankruptcy Trustee
7

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION**

11 In re
12 **NANCY DAVIS**
aka The Nancy Sue Davis Trust,
13 Debtor.
14

Case No. 2:11-bk-58593-BR

Chapter 7

**ORDER GRANTING APPLICATION
AND AUTHORIZING THE TRUSTEE
TO EMPLOY SHULMAN HODGES &
BASTIAN LLP AS SPECIAL COUNSEL**

[No Hearing Set Pursuant to
Local Bankruptcy Rule 2014-1(b)]

18 The Court having read and considered the Chapter 7 Trustee’s Application to Employ
19 Shulman Hodges & Bastian LLP as Special Counsel; Declaration of Leonard M. Shulman in
20 Support Thereof (“Application”) (docket number 65), filed by Howard M. Ehrenberg
21 (“Trustee”), the Chapter 7 trustee for the bankruptcy estate (“Estate”) of Nancy Davis (“Debtor”) and it appearing from the Declaration re: Entry of Order Without Hearing Pursuant to LBR
22 9013-1(o) filed concurrently herewith that proper notice of the Application has been given, no
23 objections have been filed, and good cause having been shown, it is hereby
24

25 **ORDERED** as follows:

- 26 1. The Application is granted in its entirety.
27
28

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: **8105 Irvine Center Drive, Suite 600, Irvine, California 92618**

A true and correct copy of the foregoing document entitled (*specify*): **ORDER GRANTING APPLICATION AND AUTHORIZING THE TRUSTEE TO EMPLOY SHULMAN HODGES & BASTIAN LLP AS SPECIAL COUNSEL** 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 stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **Not Applicable**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **December 13, 2012**, I served the following persons and/or entities at the last known addresses 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 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.

Debtor

**Nancy Davis
10423 Aubrey Road
Beverly Hills, CA 90210**

Attorney for the Debtor

**Stella A Havkin
Havkin & Shrago
20700 Ventura Blvd Ste 328
Woodland Hills, CA 91364**

Interested Party

**Office of the United States Trustee
Ernst & Young Plaza
725 South Figueroa Street 26th Floor
Los Angeles, CA 90017**

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **December 13, 2012**, I served the following persons and/or entities by personal delivery, overnight mail service, 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, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Judge's Copy – Via Messenger

**U.S. Bankruptcy Court
Honorable Barry Russell
255 East Temple Street - Bin Outside Suite 1660
Los Angeles, CA 90012**

Service information continued on attached page

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

December 13, 2012

Date

Lorre Clapp

Printed Name

/s/ Lorre Clapp

Signature

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): **ORDER GRANTING APPLICATION AND AUTHORIZING THE TRUSTEE TO EMPLOY SHULMAN HODGES & BASTIAN LLP AS SPECIAL COUNSEL** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. **SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** – Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (*date*) **December 13, 2012**, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

- Howard M Ehrenberg (TR) ehrenbergtrustee@sulmeyerlaw.com, ca25@ecfcbis.com;C123@ecfcbis.com
- Stella A Havkin stella@havkinandshrago.com, havkinlaw@earthlink.net
- Robert E Huttenhoff rhuttenhoff@shbllp.com
- Iian Jablon ijablon@irell.com, jthacker@irell.com;twang@irell.com
- Leonard M Shulman lshulman@shbllp.com
- Lindsey L Smith lls@lnbyb.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

Service information continued on attached page

2. **SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Debtor

Nancy Davis
10423 Aubrey Road
Beverly Hills, CA 90210

Service information continued on attached page

3. **TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

Service information continued on attached page

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:
8105 Irvine Center Drive, Suite 600, Irvine, California 92618

A true and correct copy of the foregoing document entitled (*specify*): **CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER: 1) APPROVING THE SALE OF PERSONAL PROPERTY FREE AND CLEAR OF LIENS PURSUANT TO BANKRUPTCY CODE § 363(b)(1) AND (F) AND SUBJECT TO OVERBIDS COMBINED WITH NOTICE OF BIDDING PROCEDURES AND REQUEST FOR APPROVAL OF THE BIDDING PROCEDURES UTILIZED; 2) AUTHORIZING PAYMENT OF CONTINGENCY FEE TO SPECIAL COUNSEL; AND 3) GRANTING RELATED RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES; AND DECLARATION OF HOWARD M. EHRENBURG IN SUPPORT THEREOF** 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 stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **August 2, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

CHAPTER 7 TRUSTEE: Howard M Ehrenberg (TR) ehrenbergtrustee@sulmeyerlaw.com, ca25@ecfcbis.com;C123@ecfcbis.com

DEBTOR'S COUNSEL: Stella A Havkin stella@havkinandshrago.com, havkinlaw@earthlink.net

SPECIAL COUNSEL FOR THE CHAPTER 7 TRUSTEE: Robert E Huttenhoff rhuttenhoff@shbllp.com

CREDITOR/INTERESTED PARTY: Ilian Jablon ijablon@irell.com, jthacker@irell.com;twang@irell.com

SPECIAL COUNSEL FOR THE CHAPTER 7 TRUSTEE: Leonard M Shulman lshulman@shbllp.com

INTERESTED PARTY: Lindsey L Smith lls@lnbyb.com

INTERESTED PARTY: United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **August 2, 2013**, I served the following persons and/or entities at the last known addresses 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 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.

Judge's Copy

Honorable Barry Russell
Unites State Bankruptcy Court
Roybal Federal Building
255 E. Temple Street
Los Angeles, CA 90012-3332

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **Not Applicable**, I served the following persons and/or entities by personal delivery, overnight mail service, 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, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

August 2, 2013
Date

Anne Marie Vernon
Printed Name

/s/ Anne Marie Vernon
Signature

U.S. MAIL SERVICE LIST

DEBTOR/BUYER

NANCY DAVIS
10423 AUBREY ROAD
BEVERLY HILLS, CA 90210

COURT NOTICING MATRIX

BROWNE GEORGE ROSS LLP
SYLVIA P. LARDIERE, ESQ.
2121 AVENUE OF THE STARS
SUITE 2400
LOS ANGELES CA 90067

COURT NOTICING MATRIX

CAMERON PARISH SCHOOL BOARD
510 MARSHALL STREET
CAMERON, LA 70631

COURT NOTICING MATRIX

EDWARD LANDRY, ESQ.
MUSICK PEELER & GARRETT
624 S. GRAND AVE., STE. 2000
LOS ANGELES, CA 90017

COURT NOTICING MATRIX

HAYNES AND BOONE, LLP
TREY A. MONSOUR, PARTNER
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

COURT NOTICING MATRIX

HENRI LAPEYRE, ESQ.
LAPEYRE & LAPEYRE
400 MAGAZINE ST., #304
NEW ORLEANS, LA 70130

COURT NOTICING MATRIX

MR. & MRS. MICHAEL SMITH
1215 SPRUCE ST.
BOULDER, CO 80302

COURT NOTICING MATRIX

NEVILLE JOHNSON, ESQ.
JOHNSON & JOHNSON LLP
439 N. CANON DRIVE, SUITE 200
BEVERLY HILLS, CA 90210

COURT NOTICING MATRIX

STATE OF LOUISIANA
C/O ATTORNEY GENERAL
1888 N. THIRD ST.
BATON ROUGE, LA 70802

COURT NOTICING MATRIX

TROY MANSOURI, ESQ.
HAYNES & BOONE LLP
2323 VICTORY AVE., SUITE 700
DALLAS, TX 75219

NOTICE PURPOSES

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY
OPERATIONS
PO BOX 7346
PHILADELPHIA, PA 19101-7346

NOTICE PURPOSES

CALIFORNIA FRANCHISE TAX BOARD
BANKRUPTCY SECTION, MS: A-340
PO BOX 2952
SACRAMENTO, CA 95812-2952

COUNSEL FOR KOHL'S

SCOTT P. SHAW, ESQ.
MARK EISENHUT, ESQ.
CALL & JENSEN
610 NEWPORT CENTER DRIVE
SUITE 700
NEWPORT BEACH, CA 92660

RETURNED MAIL

NO ADDRESS

COURT NOTICING MATRIX

MAKO
ADDRESS CURRENTLY UNKNOWN]

**PER SUBSTITUTION OF
ATTORNEY 11/19/12 DEBTOR'S
COUNSEL**

EDWARD M WOLKOWITZ, ESQ.
LEVENE NEALE BENDER RANKIN
& BRILL LLP
10250 CONSTELLATION BLVD.
SUITE 1700
LOS ANGELES, CA 90067

**PER SUBSTITUTION OF ATTORNEY
11/19/12 DEBTOR'S COUNSEL**

LINDSEY L SMITH, ESQ.
LEVENE, NEALE, BENDER, RANKIN
& BRILL LLP
10250 CONSTELLATION BLVD.
SUITE 1700
LOS ANGELES, CA 90067

**RETURNED 12/6/12.
UNDELIVERABLE AND NO
FORWARDING**

COURT NOTICING MATRIX

KENNETH RICKEL
9595 WILSHIRE BLVD.
BEVERLY HILLS, CA 90212