Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
Steven P. Chang (CSB 221783) Robert M. Aronson (CSB 81487) LAW OFFICES OF STEVEN P. CHANG 801 S. Garfield Avenue, Suite 338 Alhambra, CA 91801-4486 Telephone: (626) 281-1232 Facsimile: (626) 281-2919 Email: schang@spclawoffice.com ☐ *Individual appearing without attorney* ☒ *Attorney for:* Debtor Maria Scaccianoce	

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re: Maria Scaccianoce Debtor(s).	CASE NO.: 2:12-bk-32482-NB CHAPTER: 11 AMENDED **NOTICE OF SALE OF ESTATE PROPERTY**

Sale Date: 8/27/13	**Time:** 11:00 a.m.
Location: US Bankruptcy Court, 255 E. Temple St., Los Angeles, CA 90012	

Type of Sale: ☒ Public ☐ Private **Last date to file objections:** 8/13/13

Description of property to be sold: 10 unit apartment building located at 3960 Van Buren Place, Culver City, CA, described as:

Lot 176 of Nolan Park Tract, in the City of Culver City, County of Los Angeles, State of California, as per map recorded in Book 32 Page 45 of Maps, in the office of the County Recorder of said County.

Terms and conditions of sale: See attached.

Proposed sale price: $1,250,000.00

Overbid procedure (*if any*): See attached.

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:
8/27/2013 at 11:00 a.m., Courtroom 1545 of US Bankruptcy Court, 255 E. Temple Street, Los Angeles, CA 90012.
See also attachment.

Contact person for potential bidders (*include name, address, telephone, fax and/or email address*):
Ami Bautista, Keller Williams, 889 Americana Way, Suite 408, Glendale, CA 91210, Tel.: (818)432-3200, Fax: (818) 432-3232, email: amihomelife@aol.com or
Robert M. Aronson, 444 S. Flower Street, Suite 1700, Los Angeles, CA 90071, Tel.: (213) 688-8945, Fax: (213) 688-8948, email: robert@aronsonlawgroup.com

Date: 8/6/13

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:

801 S. Garfield Ave., Suite 338 Alhambra, CA 91801

A true and correct copy of the foregoing document entitled: AMENDED **NOTICE OF SALE OF ESTATE PROPERTY** 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*) 8/6/13, 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*) 8/6/13, 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.

☒ 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*) _____, 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.

8/6/13	Vivian Tran	
Date	*Printed Name*	*Signature*

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**:

Robert M Aronson on behalf of Debtor Maria A Scaccianoce robert@aronsonlawgroup.com
Richard A Brownstein on behalf of Creditor Zswift, LLC rbrownstein@greenbass.com
Jeffrey A Krieger on behalf of Creditor James Ratliff jkrieger@ggfirm.com, kwoodson@greenbergglusker.com;calendar@greenbergglusker.com;pporooshani@greenbergglusker.com
Jeffrey A Krieger on behalf of Interested Party Jeffrey A. Krieger jkrieger@ggfirm.com, kwoodson@greenbergglusker.com;calendar@greenbergglusker.com;pporooshani@greenbergglusker.com
Dare Law on behalf of U.S. Trustee United States Trustee (LA) dare.law@usdoj.gov, hatty.yip@usdoj.gov
Peter F Lindborg on behalf of Creditor Patt Marion Kaye plindborg@lmllp.com
Peter F Lindborg on behalf of Defendant Patt Marion Kaye plindborg@lmllp.com
Peter F Lindborg on behalf of Plaintiff Patt Marion Kaye plindborg@lmllp.com
Terry Loftus on behalf of Creditor Wells Fargo Bank, NA., its assignees and/or successors, by and through its servicing agent Wells Fargo Home Mortgage bknotice@mccarthyholthus.com, tloftus@mccarthyholthus.com
Susan I Montgomery on behalf of Interested Party Courtesy NEF susan@simontgomerylaw.com
Alan I Nahmias on behalf of Interested Party Courtesy NEF anahmias@mbnlawyers.com, jdale@mirmanbubman.com
United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

2. **SERVED BY UNITED STATES MAIL**:

Honorable Neil W. Bason
United States Bankruptcy Court
255 E. Temple Street, Suite 1552
Los Angeles, CA 90012

Office of the United States Trustee
725 S Figueroa St., 26th Floor
Los Angeles, CA 9001

SECURED CREDITORS

Etsuko Eckman 6947 W. 85th Place Westchester, CA 90045	Francis Vinuya 1845 Starfall Dr West Covina, CA 91790
Zswift C/O Schwartz & Fenster 21700 Oxford St #1160 Woodland Hills, CA 91367	James Ratliff 6947 W. 85th Place Westchester, CA 90045

JPMorgan Chase Bank, NA 1111 Polaris Parkway Columbus, OH 43240	JPMorgan Chase Bank, NA 1111 Polaris Parkway Columbus, OH 43240
JP Morgan Chase 29995 Canyon Hills Rd. Lake Elsinore, CA 92532	Patt Kaye C/O Raymond Schreck, Esq. 417 S. Hill St #1000 Los Angeles, CA 90013
Wells Fargo Home Mortgage PO BOX 14411 Des Moines, IA 50306	Wheels Financial Group 15821 Ventura Blvd Ste 185 Encino, CA 91436
Richard Brownstein Attorney for Zswift, LLC Greenberg & Bass LLP 16000 Ventura Blvd Ste 1000 Encino, CA 91436	Attorney for James Ratliff Jeffrey A. Krieger GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP 1900 Avenue of the Stars, 21st Floor Los Angeles, California 90067-4590

GENERAL UNSECURED AND OTHERS (CO-OWNERS etc..)

James Ratliff 6947 W. 85th Place Westchester, CA 90045	Internal Revenue Service PO Box 2952 Philadelphia, PA 19101
Cynthia Cruz 530 East Pleasant St Unit 2 Long Beach, CA 90805	Jeremy Licop 522 E Ave 3q Los Angeles, CA 90031
Franchise Tax Board Bankruptcy Section MS A340 PO Box 2952 Sacramento, CA 95812	Lauren Holland 8021 Cozycroft Ave Winnetka, CA 91306
Cecilia Villanueva 13726 Ramona Parkway Baldwin Park, CA 91706	Credit One Bank C/O Midland Funding 8875 Aero Dr. Ste 200 San Diego, CA 92123
Francis Vinuya 1845 Starfall Dr West Covina, CA 91790	Capital One PO BOX 30281 Salt Lake City, UT 84130
First Premier Bank 601 S Minnesota Ave Sioux Falls, SD 57104	1800 Loan Mart 1801 W Olympic Blvd Pasadena, CA 91199
1800 Loan Mart 15821 Ventura Blvd. Ste 280 Encino, CA 91436-5218	New Haven Financial 24025 Park Sorrento #150 Calabasas, CA 91302-4004

American InfoSource LP as agent for Midland Fudning LLC PO Box 268941 Oklahoma City, OK 73126-8941	Noriel L. Flores, Esq. Law Offices of Noriel L. Flores 21671 Gateway Center Dr. Suite 103 Diamond Bar, CA 91765
CCB 5300 S 6th St Springfield, IL 62703	Pacific Bell Telephone Company % AT&T Services, Inc. James Grudus, Esq. One At&t Way, Room 3A218 Bedminster, NJ 07921-2693
First Source 205 Bryant Woods South Amherst, NY 14228-3609	Mcm PO BOX 603 Oaks, PA 19456-0603
Franchise Tax Board PO Box 2952 Sacramento, CA 95812	Patt Kaye C/O Peter F. Lindborg 550 N. Brand Blvd., Ste 1830 Glendale, CA 91203
George Mchose C/O Raford Management 6345 Balboa Blvd #312 Encino, CA 91316	(p) Portfolio Recovery Associates, LLC. PO BOX 41067 Norfolk, VA 23541-1067
Harold Cabalo 1423 Mendoz St. Holly Angel Village Phase 2 Pelabastagan San Fernando Pampanga Philippines	Premier Bankcard/ Charter PO BOX 2208 Vacaville, CA 95696-8208
Wells Fargo Bank Overdraft Recovery Payment Pro. Dept. A0143-042 PO BOX 63491 San Francisco, CA 94163-0001	Wells Fargo Home 3476 Stateview Blvd Fort Mill, SC 29715
Attorney for Marie Keating Lawrence Hummer Lawrence Hummer, A Law Corporation 12121 Wilshire Blvd., Suite 600 Los Angeles, CA 90025	Howard Keating 12508 Rosy Circle Los Angeles, CA 90066-6927
John Hladek 1202 Sycamore Ave. El Segundo, CA 90245	Wayne Sult 4525 West 138th St. Hawthrone, CA 90250-6911

R&K Interests Inc. 27042 Towne Centre Dr. Suite #250 Foothill Ranch, CA 96210-0000	Patt Marion Kaye 8315 Pershing Dr. Playa Del Rey, CA 90293-7841
Buyers Jack and Kari Yermian 11538 San Vicente Blvd. Los Angeles, CA 90066	Susan Montgomery Law Office of Susan Montgomery 1925 Century Park E Suite 2000 Los Angeles, CA 90067
Attorney for John Hladek Jay H. Grant, Inc., APC 10517 Santa Monica Blvd Los Angeles CA 90025	

SPECIAL NOTICE

Wells Fargo Home Mortgage 3476 Stateview Blvd Attention: Bankruptcy Department MAC #d3347-014 Fort Mill, SC 29715	Wells Fargo Bank, NA., its assignees and/or McCarthy & Holthus, LLP 1770 Fourth Avenue San Diego, CA 92101

ATTACHMENT TO NOTICE OF SALE

The debtor and debtor in possession, Maria Scaccianoce ("Debtor") has negotiated a sales transaction whereby the Estate's and the co-owner Marie Keating's ("Co-Owner") interests in the property located at 3960 Van Buren Place, Culver City, California ("Property") will sold for $1,250,000.00, subject to Court approval. The sale is the subject of the Motion for Order: (1) Authorizing Sale of Debtor's and Co-Owner's Interest in Real Property Located at 3960 Van Buren Place, Culver City, California Free and Clear of Liens and Subject to Overbid; and (2) For a Determination of Good Faith Purchaser Under 11 U.S.S. § 363(m) ("Motion"). Parties seeking a copy of the Motion and all attachments and exhibits thereto may seek same from counsel for the Debtor, whose contact information is indicated in the upper lefthand corner of this Notice.

The Property was listed for sale on April 4, 2013. The Debtor received 23 offers for the purchase of the Property, ranging from $920,000 to $1,250,000. The Debtor has determined that it is in the best interest of the Estate to proceed with the sale to Mollica Group Properties, LLC ("Buyer") for the sum of $1,250,000.00, the highest bidder.

The Sale Agreement was signed on May 13, 2013. Pursuant to the Agreement, the Buyers have deposited the initial deposit of $33,750.00 ("Initial Deposit") with First Trust Escrow, Inc., 889 Americana Way, Suite 408-A, Glendale, California 91210. All contingencies have been removed except with respect to the Bankruptcy Court bidding process and Court approval. The Initial Deposit shall be refundable only if Buyers are not the successful bidders in the event overbids are received.

The Debtor has obtained a Preliminary Title Report reflecting the full and complete legal description of the Property and all known liens, claims and interests.

RELIEF SOUGHT IN THE MOTION

The Debtor seeks an order approving the Debtor's proposed sale of the Property, free and clear of liens and subject to overbid, and determining the Buyers are good faith purchasers under §363(m) of the Bankruptcy Code.

A. Approval of Proposed Sale of Property

The Debtor seeks approval to sell the Property on the terms and conditions set forth in the proposed Sale Agreement with Addendums, a copy of which is attached to the Motion. In this Motion, the Debtor seeks approval to pay from the gross proceeds of the sale of the Property (either from escrow or through an Order of the Court depending upon the proposed payee) the following estimated amounts:

Payee	Reason for Payment	Amount
Purchase Price		**$1,250,000.00**
JP Chase Morgan	1st trust deed	$125,000 approx.
Nick Avedissian/Keller Williams	Seller broker's commissions	$31,250.00
Keller Williams Westside	Buyer broker's commissions	$31,250.00
Franchise Tax Board	Withholding tax	$41,662.50
City and State	Transfer taxes	$7,000.00
For credit to buyer	Prepaid rents	$5,975.00
First Trust Escrow/Title	Escrow and title costs	$6,028.00

Sub-Total Costs and Loan		$248,165.50
Net Available		$1,001,834.50
Keating	Payments to Co-Owner	$150,275.17
Est. Net Available to Estate and Ratliff		$851,559.40

B. Determination That Buyers Are Good Faith Purchasers.

The Debtor also seeks an Order determining that Buyers are good faith purchasers entitled to the protections of 11 U.S.C. §363(m). The Buyers do not have any connection or relationship with the Debtor and have negotiated an arms-length transaction with the Debtor.

C. Summary of Terms of Sale of the Property.

The Debtor is seeking Court authority to sell the Property to Mollica Group Properties, LLC, subject to overbid. The proposed terms of sale include the following:

1. Subject to Bankruptcy Court approval, the Debtor has accepted the offer to sell her interest and that of Marie Keating in the Property to Mollica Group Properties, LLC for the sum of $1,250,000.00, free and clear of all liens, claims and interests.
2. Payment of the Co-Owner.
3. Payment of the liens and other encumbrances held against the Property as set forth above from escrow.
4. The proposed sale is subject to overbids. The initial deposit shall be refundable only if the Buyers are not the successful bidders in the event overbids are received. Any overbids must present proof of ability to complete a sale prior to the start of the hearing. Any potential overbiddders are encouraged to contact Debtor's counsel prior to hearing to further discuss the overbidding procedures.
5. The Motion further seeks to eliminate to fourteen-day stay on effectiveness of any Order approving the sale otherwise applicable pursuant to Rule 6004(h) of the Federal Rule of Bankruptcy Procedure.
6. The Motion also seeks approval for the payment of real estate brokerage commissions from escrow upon closing. Subject to Court approval, the Debtor has agreed to pay a total commission of five percent (5%) of the $1,250,000.00 sales price. If the proposed $1,250,000.00 sale is approved without overbids, the total commission will equal $62,250.00, which will be paid from the sale proceeds. Half of the commission will be paid to the Debtor's agent, Nick Avedissian of Keller Williams, and the other half to Buyers' broker, Keller Williams Westside, from escrow upon closing, subject to the terms and conditions set forth in the Court's order approving employment of the Agent.

D. The Sale is Subject to Overbid and Proposed Bidding Procedures.

The Property will be sold subject to overbid at an open auction to be conducted by the Court or the Debtor at the time that this Motion is heard. The Debtor proposes that the initial overbid for the Property must be at least $100,000 over the proposed purchase price and all subsequent overbids must be in increments of at least $50,000. The successful bid will be determined by the Court at the completion of the bidding process at which time the successful buyer must tender an earnest money, good faith, and non-refundable deposit in the form of certified funds or cashier's check payable to the trust account of Debtor's counsel in the amount of at least $100,000.

Anyone wishing to qualify as a bidder for the purchase of the Property must, prior to the start of the auction, provide proof of satisfactory to counsel for the Debtor that such bidder has sufficient funds to make the specified deposit and financial ability to complete the sale.

The Trustee also requests that the Court approve a "back up" bid at the time of auction, which will become the successful bid in the event of non-performance of the successful bidder. In this case, the facts surrounding the sale support the Debtor's business decision to sell the Property. The Property's estimated value is significantly higher than the Debtor originally estimated when she filed her bankruptcy schedules, which estimate was only $1,250,000. The Buyers are not associated with the Debtor in any way. The proposed sale of the Property is a sound business decision because it will generate significant cash proceeds for the estate. The price to be paid is fair and reasonable and the sale is being made in good faith. Good cause thus exists to authorize the sale of the Property.

A. <u>Sale Of The Property Free And Clear Of Liens Under 11 U.S.C. §363(f)</u>

1. <u>Sale Free and Clear of Liens</u>

The Debtor seeks authority to complete the sale free and clear of all liens, claims and interests. Bankruptcy Code §363(f) allows a trustee to sell property of the bankruptcy estate "free and clear of any interest in such property of an entity," if any one of the following conditions is met:

(1) Non-bankruptcy law permits a sale of such property free and clear of such interest;
(2) Such entity consents;
(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;
(4) Such interests is in bona fide dispute; or
(5) Such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

11 U.S.C. §363(f).

In this case, there are two outstanding deeds of trust against the Property. The first is to JP Morgan Chase in the amount of approximately $125,000. This amount will be paid at the closing. The second trust deed is owing to creditor Ratliff. According to the preliminary title report attached hereto, Ratliff is owed the principal sum of approximately $509,000. Taking into account this discounted amount, the liens against the Property total approximately $634,000. Because the sales price exceeds the total of all liens, claims and encumbrances, the proposed sale free and clear is authorized by 11 U.S.C. §363(f)(3). There will be no immediate distribution to Ratliff since there is a claim related to the nature and extent of his lien raised by way of a complaint filed by creditor Patt Kaye.

Moreover, even though there will be no immediate distribution to Ratliff, Ratliff consents to this sale. Thus, the proposed sale free and clear also complies with Section 363(f)(2)

2. <u>Sale Free and Clear of Co-Owners' Interests</u>

Pursuant to Section 363(f), the trustee may sell property free and clear of interests of an entity if, among other things, "such entity consents". The sole co-owner in this case is Marie Keating. As evidenced by the attached Declaration of Marie Keating, she consents to the sale. Thus, the standard set forth in Section 363(f)(2) has been satisfied. In addition, Ms. Keating does not wish to exercise her first refusal rights under Section 363(i).

Pursuant to 11 U.S.C. §363(h), a trustee may sell both the estate's interest and the undivided tenancy in common, joint tenancy or tenant by the entirety interest of any co-owner in property, only if "(1) partition in kind of such property among the estate and such co-owners is impracticable, (2) sale of the estate's undivided interest in such property would realize significantly less for the estate than the sale of such property free of the interests of such co-

owners; (3) the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and (4) the property is not used in the production ...of energy... or power." As demonstrated below, the Debtor satisfies all of these criteria.

A. Partition is Impracticable

"Partition assumes that a property may be physically divided in order that all co-owners could each be given an appropriate portion of the whole." *In re Spickelmire,* 433 B.R. 792, 801 (Bankr. Ct., Idaho 2010). Therefore, if a property does not lend itself to a physical division, partition is not practicable.

In the instant case, the Property is a 7-unit apartment building. These units cannot be physically divided between the Debtor and Co-Owner. Even if it could, the Debtor and the Co-Owner own very divergent percentage interests, with the Debtor owning 85% and Ms. Keating owing 15%.

If the Property were to be physically partitioned, then the Debtor would be entitled to 5.95 units, and the Co-Owner entitled to 1.05 units. Thus, there is no practicable way to physically divide the Property such that the Debtor and the Co-Owner would receive their precise percentage share. Accordingly, partition is impracticable.

B. The Sale of the Estate's Undivided Interest Would Realize Less for the Estate

The Debtor believes that there would be no market for the sale of her 85% undivided interest since no buyer would want to be a co-owner. Even if there were a market for such a sale, the Debtor's interest would subject to a very steep discount, realizing virtually nothing for the estate. Where the sale of the estate's interest and that of the co-owners will realize significantly more for the estate than just the sale of the estate's interest, the sale of the debtor's and the co-owner's interests should be approved. *In re Maruko, Inc.,* 200 B.R. 876, 882 (Bankr. S.D. Ca. 1996), citing *In re Reed,* 940 F. 2d 1317, 1323 (9th Cir. 1991).

C. There is No Detriment to the Co-Owner

The Debtor is receiving a very favorable price for the Property. Thus, the Co-Owner cannot complain that she is being shortchanged on the value that she is receiving for her interest. In fact, the Debtor estimates that the Co-Owner will receive approximately $150,275.00 from the proceeds of this sale. Thus, the Co-Owner is not suffering any detriment.

D. The Property is Not Used for Energy Production

This factor is inapplicable since the Property is a 7-unit apartment building, not a producer of energy.

Based on all of the foregoing, the Debtor has satisfied all criteria for selling the Property free and clear of both liens and the interest of the Co-Owner.