

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address STEVEN J. SCHWARTZ (SBN 200586) sschwartz@dgdk.com DANNING, GILL, DIAMOND & KOLLITZ, LLP 1900 AVENUE OF THE STARS, 11TH FLOOR LOS ANGELES, CA 90067-4402 Telephone: (310) 277-0077 Facsimile: (310) 277-5735  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Richard K. Diamond, Chapter 7 Trustee	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

In re: BAHMAN NAVABIAN,          Debtor(s).	CASE NO.: 2:13-bk-20405-TD CHAPTER: 7   <p style="text-align: center;"><b>NOTICE OF SALE OF ESTATE PROPERTY</b></p>
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<b>Sale Date:</b> December 10, 2014	<b>Time:</b> 10:00 a.m.
<b>Location:</b> United States Bankruptcy Court, Courtroom 1345, 255 E. Temple Street, Los Angeles, CA 90012	

**Type of Sale:**  Public  Private      **Last date to file objections:** November 26, 2014

**Description of property to be sold:** Real property commonly described as 268 S. Almont Drive, Beverly Hills, California 90211.

**Terms and conditions of sale:** As-is basis, free and clear of liens and encumbrances, with such interests to attach to the proceeds.

**Proposed sale price:** 2,600,000

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

Overbid procedure (if any): SEE THE ATTACHED NOTICE

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

December 10, 2014

10:00 a.m.

United States Bankruptcy Court

Courtroom 1345

255 E. Temple Street

Los Angeles, CA 90012

Contact person for potential bidders (include name, address, telephone, fax and/or email address):

Steven J. Schwartz, Esq.

Danning, Gill, Diamond & Kollitz, LLP

1900 Avenue of the Stars, 11th Floor

Los Angeles, CA 90067

Telephone: (310) 277-0077

Facsimile: (310) 277-5735

Email: [sschwartz@dgdk.com](mailto:sschwartz@dgdk.com)

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Date: 11/5/2014

1 STEVEN J. SCHWARTZ (State Bar No. 200586)  
*sschwartz@dgd.com*  
2 DANNING, GILL, DIAMOND & KOLLITZ, LLP  
1900 Avenue of the Stars, 11<sup>th</sup> Floor  
3 Los Angeles, California 90067-4402  
Telephone: (310) 277-0077  
4 Facsimile: (310) 277-5735  
5 Bankruptcy Counsel for Richard K. Diamond,  
Chapter 7 Trustee  
6  
7

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

11 In re

12 BAHMAN NAVABIAN,

13  
14 Debtor.

Case No. 2:13-bk-20405-TD

Chapter 7

**NOTICE OF HEARING ON MOTION OF  
CHAPTER 7 TRUSTEE FOR ORDER: (1)  
AUTHORIZING SALE OF REAL  
PROPERTY FREE AND CLEAR OF  
LIENS AND ENCUMBRANCES; (2)  
APPROVING OVERBID PROCEDURES;  
(3) AUTHORIZING PAYMENT OF ANY  
UNDISPUTED LIENS AND COSTS OF  
SALE; (4) FINDING THAT PURCHASER  
IS A GOOD FAITH PURCHASER UNDER  
11 U.S.C. §363(m); (5) FINDING THAT  
REAL PROPERTY IS PROPERTY OF  
DEBTOR'S ESTATE; (6) REQUIRING  
DEBTOR TO VACATE, TURN OVER  
POSSESSION OF, AND REMOVE  
PERSONAL PROPERTY FROM REAL  
PROPERTY; AND (7) AUTHORIZING  
UNITED STATES MARSHAL AND/OR  
LOS ANGELES COUNTY SHERIFF TO  
ENFORCE ANY TURNOVER ORDER**

Date: December 10, 2014  
Time: 10:00 a.m.  
Place: Courtroom "1345"  
255 East Temple Street  
Los Angeles, CA 90012

1 **TO THE HONORABLE THOMAS B. DONOVAN, UNITED STATES**  
2 **BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, THE**  
3 **DEBTOR AND HIS COUNSEL; CREDITORS AND ALL PARTIES IN INTEREST:**

4 **PLEASE TAKE NOTICE** that on December 10, 2014 at 10:00 a.m., or as soon thereafter  
5 as the matter may be heard, in Courtroom “1345” of the United States Bankruptcy Court, 255 E.  
6 Temple Street, Los Angeles, California, Richard K. Diamond, the duly appointed, qualified, and  
7 acting chapter 7 trustee of the bankruptcy estate of the above-captioned debtor (the “Trustee”), will  
8 move under 11 U.S.C. §§ 363(b) and (f) and Local Bankruptcy Rules 6004-1(c) and 9013-1(a) that  
9 the Court enter an order:

10 (1) authorizing the Trustee to sell all of his right, title and interest in residential real  
11 property commonly described as 268 S. Almont Drive, Beverly Hills, California 90211 (the  
12 “Property”) on an as-is basis, without any warranties or representations, free and clear of liens and  
13 encumbrances, with such liens and encumbrances to attach to the sale proceeds, to Maryam  
14 Habooshe, Sara Eghbali and/or designee (the “Buyer”) for the purchase price of \$2,600,000, in  
15 accordance with the terms of this Motion and the Purchase and Sale Agreement, a true and correct  
16 copy of which is attached to the Declaration of Richard K. Diamond (the “Trustee’s Declaration”)  
17 appended to the Motion, marked as Exhibit “1” and incorporated herein by this reference (the “Sale  
18 Agreement”), or to any person who appears at the hearing and submits a higher acceptable bid;

19 (2) authorizing the Trustee to execute any and all documents that may be necessary to  
20 consummate the sale of the Property;

21 (3) approving the overbid procedures;

22 (4) authorizing the Trustee to pay any undisputed liens and the costs of sale, including,  
23 without limitation, real estate brokerage commissions and miscellaneous escrow fees and closing  
24 costs, and any unpaid property taxes out of the sale proceeds and through the escrow;

25 (5) finding that the Buyer, or any person who appears at the hearing and submits a  
26 higher acceptable bid and becomes the purchaser, is a good faith purchaser under 11 U.S.C.  
27 §363(m);

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1 (6) finding that the Property is property of the Debtor's estate;

2 (7) requiring that on or before December 24, 2014, the Debtor vacate and turn over  
3 possession of the Property to the Trustee and cause all of the Debtor's personal property, including,  
4 without limitation, household furniture, furnishings and effects, but excluding any fixtures, to be  
5 removed from the Property; and

6 (8) authorizing any officers in the offices of the United States Marshal and/or the  
7 Los Angeles County Sheriff to enforce any turnover order issued by the Bankruptcy Court.

8 The Motion is made on the grounds that:

9 1. the Property may be sold free and clear of liens and encumbrances because:

10 (a) the purchase price of \$2,600,000 exceeds the amount of the  
11 undisputed lien of JPMorgan Chase Bank, N.A., the authorized loan servicing agent for the holder  
12 of the note, U.S. Bank National Association, as Trustee, successor in interest to Wachovia Bank,  
13 National Association, as Trustee, for Merrill Lynch Mortgage Investors Inc. Mortgage Pass-  
14 Through Certificates, Series MLMI 2005-A5 (collectively, "Chase") recorded on or about  
15 March 25, 2005, Recording No. 05-0690710 (the "Chase Lien"), which lien the Trustee intends to  
16 pay in full through escrow;

17 (b) the Deed of Trust in favor of All Century, recorded against the  
18 Property on or about April 15, 2008 in the amount of \$1,000,000, Recording No. 20080647489 (the  
19 "All Century DOT #2"), and the Assignment of the beneficial interest in favor of David Yaghobi  
20 ("Yaghobi"), recorded on or about January 21, 2009, Recording No. 20090080886 (the "Yaghobi  
21 Assignment") are in bona fide dispute, since, among other things:

22 (i) the Yaghobi Assignment does not assign to Yaghobi any deed  
23 of trust against the Property; rather, it assigns to Yaghobi an unrelated deed of trust securing  
24 property located at 1064 South Holt Avenue, Los Angeles CA 90035, which is not property of the  
25 estate; and

26 (ii) the All Century DOT #2 was assigned to Fred Fouladi and  
27 Zari Fouladi (the "Fouladis") on or about July 25, 2011 through their enforcement of their  
28 judgment against All Century, which in turn was assigned to the Trustee as part of a Stipulation

1 between the Trustee on one hand, and the Fouladis, Farshad Samadi and Angella Samadi,  
2 individually and as Trustees of the Angella and Farshad Samadi Family Trust (“A & F Samadi”),  
3 and Yadollah Samadi and Vajieh Samadi, individually and as Trustees of the Samadi Family Trust  
4 (“Y & V Samadi”) (collectively, the “Judgment Creditors”) (the “Judgment Creditor Stipulation”),  
5 which Stipulation was approved by the Bankruptcy Court by Order entered on or about  
6 September 24, 2014 (the “Order Approving Judgment Creditor Stipulation”);

7 (c) the Abstract of Judgment in the amount of \$12,810.73 recorded in  
8 favor of Citibank, N.A. on or about July 10, 2012 (the “Citibank Lien”), shall be paid through  
9 escrow;

10 (d) the Abstract of Judgment in the amount of \$744,428.00 recorded in  
11 favor of the Fouladis on or about May 8, 2013 (post-petition) was avoided and recovered by the  
12 Trustee pursuant to the Order Approving Judgment Creditor Stipulation and pursuant to the same,  
13 the Judgment Creditors consented to the sale of the Property free and clear of their liens, claims or  
14 interests, including the Abstract of Judgment;

15 2. the purchase price is fair and reasonable and the sale is in the best interests  
16 of the creditors and the estate;

17 3. the proposed sale to the Buyers is subject to overbids, and the overbid  
18 procedures are reasonable;

19 4. the payments of any undisputed liens, the costs of sale, and any unpaid  
20 property taxes are necessary to effect the sale of the Property;

21 5. the Buyer, or any other person who appears at the hearing and submits a  
22 higher acceptable bid and becomes the purchaser, is a good faith purchaser under 11 U.S.C.  
23 §363(m) because the Sale Agreement between the Trustee and the Buyers was the result of good  
24 faith, arms-length negotiations with no collusion, and the sale is subject to overbids;

25 6. the finding that the Property is property of the Debtor’s estate is necessary  
26 and proper to resolve title issues inasmuch as the title to the Property is currently vested in the  
27 Navabian-Hashem Revocable Family Trust dated June 7, 2006 (the “Revocable Family Trust”);

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1           7.     the Debtor's vacating and turnover of possession of the Property, and the  
2 removal of the Debtor's personal property from the Property, are necessary to effect the sale of the  
3 Property; and

4           8.     the enforcement of any turnover order is necessary and proper in the event  
5 that the Debtor does not comply with the turnover order.

6           The Motion is based upon this Notice of Motion, this Motion, the accompanying  
7 Memorandum of Points and Authorities, the Declaration of Richard K. Diamond and Darren  
8 Hubert, the Request for Judicial Notice, all pleadings on file with this Court, and any oral and  
9 documentary evidence that may be presented at the hearing on the Motion.

10          Pursuant to Local Bankruptcy Rule 6004-1(c)(3), the Trustee provides the following  
11 information:

12           (A)    The date, time and place of the hearing on the Motion are set forth above.

13           (B)    The Buyers are the proposed buyers. Their address is in care of their real estate  
14 broker, Gilleran Griffin Realtors, 9190 W. Olympic Blvd. # 118, Beverly Hills CA 90212.

15           (C)    The property to be sold is the Trustee's right, title and interest in the Property.

16           (D)    The terms of the sale include, without limitation, the following:

17           (1)    The purchase price of \$2,600,000 is payable as follows: an initial deposit of  
18 \$78,000 and the balance of the purchase price on or before the closing date of the escrow.

19           (2)    The escrow for the sale of the Property shall close not more than forty-five  
20 (45) but not less than fifteen (15) calendar days after the date of entry of the order approving the  
21 sale.

22           (3)    The Property is being sold on an "as-is" basis, without any representations or  
23 warranties.

24           (4)    The Trustee is selling the Property in his capacity as the Chapter 7 Trustee of  
25 the Debtor's estate, not in his personal capacity, and he shall not be liable personally as a result of  
26 the sale.

27           (5)    In the event that the sale is not consummated, the sole remedy of the Buyer  
28 shall be the full refund of any money deposited towards the purchase of the Property.

1 (6) The sale is subject to overbids. The Trustee seeks to sell the Property  
2 subject to the following Overbid Procedures:

3 (a) Overbid Amount and Purchase Agreement.

4 Any person or entity desiring to submit an overbid for the purchase of the  
5 Estate's interest in the Property ("Overbidder") shall advise the Trustee's bankruptcy counsel  
6 (contact information above) of his, her or its intent to bid on the Property and the amount of the  
7 overbid (the "Overbid"), which must be at least \$2,625,000 (i.e., the current sales price plus a  
8 \$25,000 minimum overbid amount), cash, by no later than 5:00 p.m. (PST), on the business day  
9 that is at least two days prior to the hearing on the Motion (the "Overbid Deadline"). In his  
10 absolute and sole discretion, the Trustee shall have the right to accept an Overbid at any time after  
11 the Overbid Deadline.

12 Together with the amount of the Overbid, the Overbidder must submit a  
13 purchase agreement, signed by the Overbidder, that contains a purchase price of at least  
14 \$2,625,000, and contains other terms and conditions that are the same as, or no less favorable to the  
15 Estate (in the Trustee's sole discretion) than, the terms stated in the Sale Agreement between the  
16 Trustee and Buyer (Exhibit "1" to the Trustee's Declaration).

17 (b) Payment of Deposit and Evidence of Financial Ability to Perform.

18 Any overbidder shall submit to the Trustee's bankruptcy counsel: (a) a  
19 cashier's check made payable to "Richard K. Diamond, Chapter 7 Trustee," in the amount of at  
20 least \$78,000, to serve as a deposit towards the purchase of the Property (the "Deposit"); and (b)  
21 evidence that the Overbidder has the financial wherewithal to close the contemplated sale. The  
22 Deposit and evidence of financial wherewithal must be delivered so that these items are received by  
23 no later than the Overbid Deadline. In his sole and absolute discretion, the Trustee shall have the  
24 right to accept these items at any time after the Overbid Deadline.

25 In the event of any Overbid, the \$78,000 initial deposit already tendered by  
26 the Buyer shall serve as the Buyer's Deposit.

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1 (c) Auction, Due Diligence, Consummation of Sale and Forfeiture of  
2 Deposit.

3 In the event the Trustee receives any Overbid, the bidders will be able to  
4 participate in an auction to be conducted at the hearing on the Motion as is necessary in order to  
5 increase their bid.

6 Subject to Court approval, the Trustee recommends that the first overbid be  
7 in the amount of \$2,625,000, cash. The Trustee recommends that, thereafter, Overbids shall be  
8 made in minimal increments of \$5,000 (subject to adjustment as appropriate) such that the next  
9 highest minimum overbid at any auction shall be an amount no less than \$2,630,000, cash. All due  
10 diligence is to be completed prior to the hearing on the Motion, as the Sale is on an “as-is” and  
11 “where is” basis, with no warranties, representations, recourse or contingencies of any kind  
12 whatsoever.

13 The Trustee will request authority to sell the Estate’s interest in the Property  
14 to the bidder who, in the Trustee’s business judgment, makes the highest and best Overbid (the  
15 “Winning Bidder”). The Trustee shall be authorized to sell the Estate’s interest in the Property to  
16 the next highest and best Overbidder in the event the Winning Bidder fails to perform (“Backup  
17 Bidder”). The Trustee reserves the right to reject any and all overbids that, in his business  
18 judgment, are insufficient.

19 The Winning Bidder’s Deposit shall be applied towards the total and final  
20 purchase price. The Winning Bidder must pay the full amount of the successful overbid to the  
21 Trustee within fifteen (15) days from the date of entry of the Order authorizing the Sale, or as  
22 otherwise set forth in the applicable purchase agreement.

23 To the extent the Winning Bidder is unable, unwilling or otherwise fails to  
24 consummate the Sale, that bidder’s entire Deposit shall become non-refundable and forfeited to the  
25 Trustee and, in the event of a Backup Bidder, the Trustee shall be authorized to proceed with a sale  
26 to the Backup Bidder (at the Backup Bidder’s last bid at the auction).

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1 To the extent a bidder is not the Winning Bidder, that bidder's Deposit will  
2 be refunded by the Trustee; except that the Trustee shall retain the Deposit of any Backup Bidder  
3 until the sale to the Winning Bidder closes.

4 (d) Agreement to Terms and Overbid Procedures.

5 Any bidder's tender of a Deposit to the Trustee shall serve as that bidder's  
6 consent to, and agreement with, these proposed Overbid Procedures and the terms and conditions  
7 of the Sale as set forth in the applicable purchase agreement, and agreement not to object or seek to  
8 modify the Overbid Procedures in any manner.

9 (7) The sale is subject to Bankruptcy Court approval after providing notice to  
10 the Debtor and his counsel, the United States Trustee, all creditors, and other parties in interest as  
11 required by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and the Local  
12 Bankruptcy Rules.

13 (8) There are no remaining contingencies, except Bankruptcy Court approval.

14 (E) The proposed sale is free and clear of liens and encumbrances. The liens affecting  
15 the Property are as follows:

16	Chase (undisputed)	\$1,683,677.68 (estimated through
17		August 31, 2014, with interest accruing
18		at the rate of \$110.56 per diem
19		thereafter)

20 All Century DOT #2/Yaghobi

21	Assignment(disputed)	\$1,000,000
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22	Citibank (undisputed)	\$12,810.73
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24	Fouladi Liens (avoided and recovered by,	
25	and/or assigned to, Trustee)	\$744,428.00

26 (F) The proposed sale is subject to overbids, and the overbid procedures are set forth  
27 below.

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1 (G) If there are no overbids and the purchase price is \$2,600,000, the estimated net sale  
2 proceeds for the Trustee, with disputed liens to attach with the same force, validity and effect, are  
3 as follows:

4	Purchase Price	\$2,600,000.00
5	Less:	
6	Chase:	(\$1,696,392.08 ) (estimated
7		closing December 24, 2014)
8	Costs of sale (estimate) (8%)	(\$208,000.00)
9	Citibank	(\$12,810.73)
10	Net:	\$682,797.19

11 (H) The total brokerage commission is 6%, payable as follows:

12 3% to Keller Williams as the Trustee's broker.

13 3% to Gilleran Griffin as the Buyer's broker.

14 (I) The exact tax consequences to the estate relative to the sale are presently unknown,  
15 but the Trustee believes that in any event, the amount of the net sale proceeds will far exceed the  
16 amounts of any tax liabilities that may arise as a result of the sale.

17 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rules 6004-1(c)  
18 and 9013-1(a), each interested party opposing, joining, or responding to the Motion must, not later  
19 than 14 days before the date of the hearing, file with the Clerk of the Bankruptcy Court and serve  
20 upon (1) Richard K. Diamond, Trustee, 1900 Avenue of the Stars, 11<sup>th</sup> Floor, Los Angeles, CA  
21 90067; (2) Steven J. Schwartz, Danning, Gill, Diamond & Kollitz, LLP, 1900 Avenue of the Stars,  
22 11<sup>th</sup> Floor, Los Angeles, CA 90067; and (3) United States Trustee, 915 Wilshire Blvd., Suite 1850,  
23 Los Angeles, CA 90017-3560 either: (i) a complete written statement of all reasons in opposition  
24 thereto or in support or joinder thereof, declarations and copies of all photographs and documentary  
25 evidence on which the responding party intends to rely, and any responding memorandum of points  
26 and authorities; or (ii) a written statement that the Motion will not be opposed.

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1 Pursuant to Local Bankruptcy Rule 9013-1(h), papers not timely filed and served may be  
2 deemed by the Court to be consent to the granting or denial of the Motion, as the case may be.

3  
4 DATED: November 5, 2014

DANNING, GILL, DIAMOND & KOLLITZ, LLP

5  
6 By: 

7 STEVEN J. SCHWARTZ  
8 Bankruptcy Counsel for Richard K. Diamond,  
9 Chapter 7 Trustee  
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## 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:  
1900 Avenue of the Stars, 11th Floor  
Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **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)* 11/5/2014, 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)* \_\_\_\_\_, 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)* 11/5/2014, 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.

Served by Personal Delivery to be delivered by 11/6/2014

Hon. Thomas B. Donovan  
U.S. Bankruptcy Court, Roybal Federal Building  
255 E. Temple Street, Bin outside of Suite 1352, 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.

11/5/2014  
Date

Cheryl Caldwell  
Printed Name

/s/ Cheryl Caldwell  
Signature

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)**

On behalf of Debtor Bahman Navabian and Counsel for Bijan Navabian and Bahram Navabian: Baruch C Cohen  
bcc4929@gmail.com, pjstarr@starrparalegals.com

Chapter 7 Trustee: Richard K Diamond (TR) jlv@dgdk.com, rdiamond@ecf.epiqsystems.com;  
DanningGill@Gmail.com

On behalf of Interested Party Courtesy NEF: Asa S Hami ahami@sulmeyerlaw.com, agonzalez@sulmeyerlaw.com;  
agonzalez@ecf.inforuptcy.com;ahami@ecf.inforuptcy.com

On behalf of Chase Bank, N.A., the authorized loan servicing agent for the holder of the note, U.S. Bank National  
Association, as Trustee, successor in interest to Wachovia Bank, National Association, as Trustee, for Merrill Lynch  
Mortgage Investors Inc. Mortgage Pass-Through Certificates, Series MLMI 2005-A5: Gina J Kim  
gjkim@piteduncan.com, efcacb@piteduncan.com

On behalf of Debtor Bahman Navabian: Edmond Nassirzadeh ed@nasslawfirm.com, ecfbestcase@gmail.com

On behalf of Interested Party Courtesy NEF: Steven J Schwartz sschwartz@dgdk.com, DanningGill@gmail.com,  
sschwartz@ecf.inforuptcy.com

United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov