

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Peter J. Mastan, Trustee travis@gumportlaw.com 550 S. Hope St., Suite 1765 Los Angeles, CA 90071 (213) 452-4928 <input checked="" type="checkbox"/> Individual appearing without attorney <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION**

In re: MOREL BENJAMIN RAMIREZ and JULIA NATSUKO RAMIREZ Debtor(s).	CASE NO.: 2:13-bk-38498-BR CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY
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Sale Date: 05/03/2014	Time:
Location:	

Type of Sale: Public Private **Last date to file objections:** 05/03/2014

Description of property to be sold: (1) 2013 Toyota Sienna and (2) 2008 Toyota Prius

Terms and conditions of sale: "AS IS" and "WHERE IS" basis, subject to all existing encumbrances, liens, claims and restrictions thereon, if any. See attached motion.

Proposed sale price: \$ 8,000.00

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): Any initial overbid for an assignment of the Estate's interest in the Vehicles must be in an amount at least \$1,000 greater than the amount to be paid by Debtors under the Agreement plus Debtors' claimed exemptions (i.e., not in an amount not less than \$11,900). See attached motion.

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

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

Peter J. Mastan
550 S. Hope St., Suite 1765
Los Angeles, CA 90071
(213) 452-4928
travis@gumportlaw.com

Date: 04/16/2014

1 PETER J. MASTAN, Trustee
travis@gumportlaw.com
2 550 South Hope Street, Suite 1765
Los Angeles, California 90071-2627
3 Telephone: (213) 452-4928

4 Peter J. Mastan, Chapter 7 Trustee of the
Bankruptcy Estate of Morel Benjamin Ramirez
5 and Julia Natsuko Ramirez

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

11 In re

12 MOREL BENJAMIN RAMIREZ
13 and
14 JULIA NATSUKO RAMIREZ

15 Debtor(s)

Bk. No.: 2:13-bk-38498-BR

CHAPTER 7

NOTICE OF MOTION AND MOTION
TO:

(A) APPROVE ASSIGNMENT
AGREEMENT BETWEEN THE
TRUSTEE AND DEBTORS FOR THE
TRUSTEE'S CONVEYANCE OF THE
ESTATE'S INTEREST IN (1) A 2013
TOYOTA SIENNA AND (2) A 2008
TOYOTA PRIUS, AND

(B) ABANDON CERTAIN REAL
PROPERTY;

MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
PETER J. MASTAN; AND EXHIBITS

[No hearing is Requested or Required]

DATE:

TIME:

PLACE: Courtroom 1668
255 E. Temple Street
Los Angeles, CA 90012
[Judge Barry Russell]

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1 **TO THE HONORABLE BARRY RUSSELL, THE DEBTORS, THE OFFICE OF**
2 **THE UNITED STATES TRUSTEE, ALL POTENTIAL CREDITORS OF THE**
3 **ESTATE, ALL OTHER INTERESTED PARTIES; AND COUNSEL OF RECORD:**

4 **NOTICE IS HEREBY GIVEN** that, on April 16, 2014, Peter J. Mastan,
5 Chapter 7 trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Morel
6 Benjamin Ramirez and Julia Natsuko Ramirez (the "Debtors"), filed a motion (the
7 "Motion") for an order that does each of the following:

8 (1) Approves the Assignment Agreement (the "Agreement") attached as
9 **Exhibit 1.**

10 (2) Authorizes the Trustee to make the assignment of the Estate's interest, in
11 (1) the vehicle described as a 2013 Toyota Sienna, License Plate # 6Y0D810, VIN #
12 5TDKK3DC9DS295773, and (2) the vehicle described as a 2008 Toyota Prius, License
13 Plate # 6CZE633, VIN # JTDKB20U983351064 (collectively, the "Vehicles") on an "AS
14 IS" and "WHERE IS" basis, subject to all existing encumbrances, liens, claims and
15 restrictions thereon, if any.

16 (3) Authorizes the Trustee to abandon the Estate's interest in the real property
17 commonly known as 647 W. 99th Street, Los Angeles, CA 90044 (the "Real Property").

18 (4) Determines that the Agreement was made in good faith in an arm's-length
19 transaction and that the assignee of the Estate's interest in the Vehicles (whether the
20 Debtors, or a successful overbidder) is acting in good faith within the meaning of
21 11 U.S.C. § 363(m).

22 (5) Determines that adequate notice of the hearing, if any, on the Motion for
23 approval of the Agreement was given.

24 (6) Authorizes the Trustee to perform the terms of the Agreement and to sign
25 all such documents that are reasonably necessary to perform the Trustee's obligations
26 under the Agreement.

27 (7) Reserves Bankruptcy Court jurisdiction to enforce the Agreement.

28 (8) Approves the following overbid procedure:

1 **(a)** any initial overbid for an assignment of the Estate's interest in the
2 Vehicles must be in an amount at least \$1,000 greater than the amount to be paid by
3 Debtors under this Agreement plus Debtors' claimed exemptions (i.e., in an amount not
4 less than \$11,900);

5 **(b)** any overbid must be received by the Trustee within 17 days after
6 service of this notice;

7 **(c)** in the event that the Trustee receives an overbid, the Trustee will
8 request a hearing from the Court.

9 **(d)** in the event that the Trustee receives multiple overbids, any
10 subsequent overbids must be made in Court at the time of the hearing on the Motion and
11 must be made in minimum increments of \$500;

12 **(e)** any overbid must be accompanied by a certified or cashier's check in
13 the full amount of that bid and the successful overbidder must pay to the Trustee by
14 certified or cashier's check the full purchase price at the time of the hearing on the
15 Motion;

16 **(f)** any assignment from overbid will be "AS IS", "WHERE IS", and
17 with no contingencies or warranties whatsoever, whether express or implied, including as
18 to merchantability, functionality or fitness for a particular purpose and will be subject to
19 all existing encumbrances, liens, claims and restrictions thereon, if any; and

20 **(g)** the Trustee may exercise his discretion to reject a particular overbid
21 that is not both higher and better (based upon all of the circumstances) than the Debtors'
22 offer or the offer of other overbidders.

23 **(9)** Authorizes the Trustee to close the proposed assignment of the Estate's
24 interest in the Vehicles to the Debtors (or the successful overbidder) unless an appeal of
25 the order authorizing that sale is timely filed and a stay pending appeal is entered.

26 **(10)** Waives the 14-day stay of orders for the disposition of Estate property set
27 forth in Fed.R.Bankr.P. 6004(h).

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1 **NOTICE IS FURTHER GIVEN** that in the event that no overbid or objection is
2 received by the Trustee within 17 days after service of the Notice of Motion, the Trustee
3 will submit a declaration of non-opposition to the Court, and lodge an order which seeks
4 the relief set forth above.

5 **NOTICE IS FURTHER GIVEN** that the Motion is made pursuant to 11 U.S.C.
6 §§ 363(b), 363(m), and 554, Federal Rules of Bankruptcy Procedure 2002 and 6004, and
7 Local Bankruptcy Rules 6004-1 and 9013-1 on the grounds that the proposed assignments
8 and abandonment are in the best interests of the Estate in that it will maximize the value
9 to unsecured creditors of the Estate's interests in the Vehicles and will dispose of a real
10 property that is burdensome or of inconsequential value to the Estate.

11 **NOTICE IS FURTHER GIVEN** that the Motion is based on (a) this Notice of
12 Motion; (b) the attached Memorandum of Points and Authorities, Declaration of Peter J.
13 Mastan, and Exhibits; (c) the concurrently filed Notice of Filing of the Motion; (d) the
14 pleadings on file with the Court of which the Court is requested to take judicial notice;
15 and (e) such further evidence that may be properly submitted prior to or at any hearing on
16 the Motion.

17 **NOTICE IS FURTHER GIVEN that, pursuant to Local Bankruptcy Rule**
18 **9013-1(f), any opposition to the Motion must be in writing; must be filed with the**
19 **Court and served upon the Trustee, the Office of the United States Trustee, and the**
20 **Debtors at the addresses set forth below not later than 17 days after service of the**
21 **Notice; and must include a complete written statement of all reasons in opposition**
22 **thereto or in support or joinder thereof, declarations and copies of all photographs**
23 **and documentary evidence on which the responding party intends to rely, and any**
24 **responding memorandum of points and authorities:**

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1 **For Filing With the Court**

2 Clerk's Office
3 United States Bankruptcy Court
4 255 E. Temple Street
5 Los Angeles, California 90012

**For Service on Barry Russell,
Bankruptcy Judge**

Hon. Barry Russell
United States Bankruptcy Court
Central District of California
Edward R. Roybal Federal
Building and Courthouse
255 E. Temple Street, Suite 1660
Los Angeles, CA 90012

6 **For Service on the Trustee**

7 Peter J. Mastan, Trustee
8 550 South Hope Street, Suite 1765
9 Los Angeles, California 90071-2627

For Service on Office of U.S. Trustee

Office of the U.S. Trustee
915 Wilshire Blvd., Suite 1850
Los Angeles, California 90017

8 **For Service on the Debtors**

9 Leonard Pena, Esq.
10 402 S Marengo Ave., Suite B
11 Pasadena, CA 91101

11 and

12 Morel Benajmin Ramirez
13 Julia Natsuko Ramirez
14 647 W. 99th Street
15 Los Angeles, CA 90044

16 **NOTICE IS FURTHER GIVEN that, pursuant to Local Bankruptcy Rule**
17 **9013-1(h), failure to timely file and serve an objection may be deemed by the Court**
18 **to be consent to granting the Motion.**

19
20 DATED: April 16, 2014

Respectfully submitted,

CHAPTER 7 TRUSTEE

21
22
23 By: _____


Peter J. Mastan
Chapter 7 Trustee of the Bankruptcy
Estate of Morel Benjamin Ramirez and
Julia Natsuko Ramirez

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Peter J. Mastan, Chapter 7 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of Morel Benjamin Ramirez and Julia Natsuko Ramirez (the “Debtors”), submits this Memorandum of Points and Authorities in support of his motion (the “Motion”) for an order that:

(1) Approves the Assignment Agreement (the “Agreement”) attached as **Exhibit 1.**

(2) Authorizes the Trustee to make the assignment of the Estate’s interest, in (1) the vehicle described as a 2013 Toyota Sienna, License Plate # 6Y0D810, VIN # 5TDKK3DC9DS295773 (“2013 Sienna”), and (2) the vehicle described as a 2008 Toyota Prius, License Plate # 6CZE633, VIN # JTDKB20U983351064 (“2008 Prius”) (collectively, the “Vehicles”) on an “AS IS” and “WHERE IS” basis, subject to all existing encumbrances, liens, claims and restrictions thereon, if any.

(3) Authorizes the Trustee to abandon the Estate’s interest in the real property commonly known as 647 W. 99th Street, Los Angeles, CA 90044 (the “Real Property”).

(4) Determines that the Agreement was made in good faith in an arm’s-length transaction and that the assignee of the Estate’s interest in the Vehicles (whether the Debtors, or a successful overbidder) is acting in good faith within the meaning of 11 U.S.C. § 363(m).

(5) Determines that adequate notice of the hearing, if any, on the Motion for approval of the Agreement was given.

(6) Authorizes the Trustee to perform the terms of the Agreement and to sign all such documents that are reasonably necessary to perform the Trustee’s obligations under the Agreement.

(7) Reserves Bankruptcy Court jurisdiction to enforce the Agreement.

(8) Approves the following overbid procedure:

///

1 **(a)** any initial overbid for an assignment of the Estate's interest in the
2 Vehicles must be in an amount at least \$1,000 greater than the amount to be paid by
3 Debtors under this Agreement plus Debtors' claimed exemptions (i.e., in an amount not
4 less than \$11,900);

5 **(b)** any overbid must be received by the Trustee within 17 days after
6 service of this notice;

7 **(c)** in the event that the Trustee receives an overbid, the Trustee will
8 request a hearing from the Court.

9 **(d)** in the event that the Trustee receives multiple overbids, any
10 subsequent overbids must be made in Court at the time of the hearing on the Motion and
11 must be made in minimum increments of \$500;

12 **(e)** any overbid must be accompanied by a certified or cashier's check in
13 the full amount of that bid and the successful overbidder must pay to the Trustee by
14 certified or cashier's check the full purchase price at the time of the hearing on the
15 Motion;

16 **(f)** any assignment from overbid will be "AS IS", "WHERE IS", and
17 with no contingencies or warranties whatsoever, whether express or implied, including as
18 to merchantability, functionality or fitness for a particular purpose and will be subject to
19 all existing encumbrances, liens, claims and restrictions thereon, if any; and

20 **(g)** the Trustee may exercise his discretion to reject a particular overbid
21 that is not both higher and better (based upon all of the circumstances) than the Debtors'
22 offer or the offer of other overbidders.

23 **(9)** Authorizes the Trustee to close the proposed assignment of the Estate's
24 interest in the Vehicles to the Debtors (or the successful overbidder) unless an appeal of
25 the order authorizing that sale is timely filed and a stay pending appeal is entered.

26 **(10)** Waives the 14-day stay of orders for the disposition of Estate property set
27 forth in Fed.R.Bankr.P. 6004(h).

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1 The Trustee received an offer from the Debtors to acquire the Estate's interest in
2 the Vehicles for a total amount of \$8,000 and the abandonment by the Trustee of the Real
3 Property. The Trustee has not received any other offers for the Vehicles. The Trustee has
4 considered the potential fair market value of the Vehicles, the costs of selling the
5 Vehicles on the open market, and outstanding liens against the Vehicles. Based thereon,
6 the Trustee believes that the proposed assignment of the Estate's right, title, and interest
7 in and to the Vehicles to the Debtors for \$8,000 will maximize the value of the Estate's
8 interest in the Vehicles.

9 The Trustee has also considered (a) his independent valuation of the Real Property,
10 (b) liens against the Real Property, (c) Debtors' claimed exemptions, (d) potential costs of
11 sale of the Real Property, and (e) the Trustee's potential fee for the sale of the Real
12 Property. Based thereon, the Trustee believes that liquidation of the Real Property would
13 not result in a distribution to creditors, and that abandonment of the Real Property is
14 warranted.

15 **II. STATEMENT OF FACTS**

16 **A. Procedural History**

17 On December 2, 2013, the Debtors filed a voluntary petition for relief under
18 Chapter 7 of the Bankruptcy Code and related schedules in the United States Bankruptcy
19 Court for the Central District of California. Mastan Decl., ¶ 3. The Trustee was
20 appointed to administer the Estate. *Id.*

21 **B. The Vehicles**

22 **1. The 2013 Sienna**

23 Debtors' Schedule B identifies the 2013 Sienna with a stated value of \$22,079.
24 Ex. 2.

25 Debtors' Schedule D lists liens against the 2013 Sienna of \$14,271.74. *Id.*

26 At the Trustee's instructions, the Debtors received a Carmax valuation for the
27 2013 Sienna of \$23,000. Mastan Decl., ¶ 5; Ex. 3.

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1 **2. The 2008 Prius**

2 Debtors' Schedule B identifies the 2008 Prius with a stated value of \$8,412. Ex. 2.
3 Debtors' Schedule D lists no liens against the 2008 Prius. *Id.*

4 At the Trustee's instructions, the Debtors received a Carmax valuation for the
5 2008 Prius of \$6,000. Mastan Decl., ¶ 5, Ex. 3.

6 The Trustee negotiated with the Debtors, through their counsel, for their
7 acquisition of the Estate's right, title, and interest in the Vehicles for \$8,000, subject to
8 Bankruptcy Court approval and overbid. Mastan Decl., ¶ 2.

9 **C. The Real Property.**

10 Debtors' Schedule A values the Real Property at \$326,756; Debtors' Schedule D
11 lists liens against the Real Property of \$197,726.44; and Debtors' Schedule C lists
12 exemptions against the Real Property of \$100,000. Ex. 2. The Trustee's independent
13 valuation of the Real Property is \$339,000. Mastan Decl., ¶ 7. Costs of sale at 8% on a
14 property using the Trustee's valuation would be approximately \$27,120, while the
15 Trustee's fee for the sale of property would be an additional \$22,410. *Id.*

16 **III. SUMMARY OF ASSIGNMENT AGREEMENT**

17 Subject to Bankruptcy Court approval and overbid, and on the terms set forth in
18 Exhibit 1, the Trustee intends to assign to the Debtors the Estate's right, title, and interest
19 in and to the Vehicles. The proposed assignment will be on an "AS IS" and "WHERE
20 IS" basis, and subject to all existing liens, if any. The Trustee also intends to abandon the
21 Estate's interest, if any, in the Real Property to the Debtors. In return for the assignment,
22 the Debtors will pay to the Estate \$8,000 (in excess of their claimed exemptions). The
23 Debtors paid \$8,000 when the Agreement was signed.

24 *The foregoing is a summary of the proposed assignment. All interested persons*
25 *are encouraged to read the assignment agreement attached hereto as Exhibit 1.*

26 *///*

27 *///*

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1 **IV. THE COURT SHOULD AUTHORIZE THE TRUSTEE TO SELL THE**
2 **ESTATE'S INTEREST IN THE VEHICLES TO THE DEBTORS OR A**
3 **SUCCESSFUL OVERBIDDER**

4 **A. Standards For Approval of Sale Outside the Ordinary Course of**
5 **Business**

6 Bankruptcy code § 704 requires a Chapter 7 Trustee to, among other things,
7 “collect and reduce to money the property of the estate.” See 11 U.S.C. § 704(a)(1).

8 A trustee is empowered to sell the estate's assets out of the ordinary course of
9 business. 11 U.S.C. § 363(b). *In re Ionosphere Clubs, Inc.*, 184 B.R. 648, 653 (S.D.N.Y.
10 1995). Approval of such a sale is within the sound discretion of the Court. *Committee of*
11 *Equity Security Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1069 (2nd
12 Cir. 1983); *In re Baldwin United Corp.*, 43 B.R. 905 (Bankr. S.D. Ohio 1984). The
13 touchstone for granting permission to sell assets outside of the ordinary course of
14 business is the existence of a good business reason. *Stephens Ind., Inc. v. McClung*, 789
15 F.2d 836 (6th Cir. 1986); *Lionel*, 722 F.2d at 1070. *Accord In re Walter*, 83 B.R. 14,
16 19-20, (9th Cir. BAP 1988).

17 In addition to the existence of a sound business reason, other requirements for
18 approval of a sale of assets pursuant to § 363(b) include (1) accurate and reasonable
19 notice of the sale, (2) a fair and reasonable price of the assets sold, and (3) “good faith,”
20 i.e., the absence of any lucrative or undisclosed deals for insiders. *In re Industrial Valley*
21 *Refrigerator and Air Conditioning Supplies, Inc.*, 77 B.R. 15, 21 (Bankr. E.D. Pa. 1987).

22 **B. The Proposed Sale of the Vehicles is Reasonable Under the**
23 **Circumstances**

24 Under the totality of the circumstances, the Trustee's sale of the Estate's right,
25 title, and interest in and to the Vehicles to Debtors for \$8,000 above Debtors' claimed
26 exemptions is reasonable and in the best interests of the Estate.

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1 **1. The Sale is Supported by Sound Business Judgment**

2 Bankruptcy courts will often defer to a trustee's business judgment regarding the
3 sale of estate assets, unless such decision is arbitrary and capricious. See *In re Curlew*
4 *Valley Assocs.*, 14 B.R. 506, 511-513 (Bankr. D. Utah 1991) (detailing the historical basis
5 behind the presumption of deference to a trustee's business judgment). Courts generally
6 will not second guess a trustee's business decision where "that conduct involves a
7 business judgment made in good faith, upon a reasonable basis, and within the scope of
8 his authority under the Code." *Id.* at 513-14.

9 The Trustee has sound business reasons for the proposed assignment of the
10 Estate's interest in the Vehicles and the abandonment of the Real Property.

11 **a. The 2013 Sienna**

12 The Estate has an approximate \$7,807 interest in the 2013 Sienna (i.e., the value
13 placed on the vehicle by Carmax of \$23,000 less liens of approximately \$14,271.44).
14 Mastan Decl. ¶ 6, Exs. 2, 3. Approximate costs of sale of the 2013 Sienna are \$2,300.
15 Mastan Decl. ¶ 6.

16 **b. The 2008 Prius**

17 The Estate has an approximate \$3,100 interest in the 2008 Prius (i.e., the value
18 placed on the vehicle by Carmax of \$6,000 less claimed exemptions of \$2,900). Mastan
19 Decl. ¶ 6, Exs. 2, 3. Approximate costs of sale of the 2008 Prius are \$600. Mastan Decl.
20 ¶ 6.

21 Taking into account costs of sale of both Vehicles and other expenses to
22 administer the Vehicles such as storage and towing, the Trustee believes that assigning
23 the Estate's interest in the Vehicles to the Debtors for \$8,000 above Debtors' claimed
24 exemptions would minimize his administrative costs and maximize the Estate's interest
25 for the benefit of the creditors to the Estate. Mastan Decl., ¶ 6.

26 **2. There is Adequate Notice of the Proposed Assignment**

27 The Trustee has given notice of the proposed assignment to all scheduled creditors,
28 the Debtors, persons requesting special notice, and other parties in interest. Moreover,

1 the Trustee has concurrently filed with the Court a “Notice of Sale of Estate Property” so
2 that the assignment, and the right to overbid on that assignment, is included on the
3 Bankruptcy Court’s website.

4 **3. The Sale Price is Fair and Reasonable**

5 The Trustee negotiated the terms of the Assignment Agreement with the Debtors
6 in order to obtain a reasonable value for the Estate’s interest in the Vehicles. Given the
7 information provided by Carmax, liens against the 2013 Sienna, Debtors’ claimed
8 exemptions in the 2008 Prius, and taking into account potential costs of sale and
9 administration of the Vehicles, the sale price is fair and reasonable. Mastan Decl., ¶ 6.

10 Additionally, the Trustee’s assignment of the Vehicles is subject to overbid and
11 notice of the assignment is being included in the Bankruptcy Court’s website advertising
12 bankruptcy court sales. Accordingly, the proposed assignment will be subjected to the
13 market.

14 **4. The Sale was Negotiated in Good Faith**

15 The Trustee wishes to ensure the finality and reliability of the assignment of the
16 Estate’s interest in the Vehicles, by facilitating the consummation of the transaction even
17 in the event of an appeal. For this reason, the Trustee seeks a finding of good faith under
18 the provisions of Section 363(m) of the Bankruptcy Code.

19 Although the Bankruptcy Code does not define “good faith,” the Court of Appeals
20 for the Ninth Circuit has held that for purposes of § 363(m), “a ‘good faith purchaser’ is
21 one who buys ‘in good faith’ and ‘for value.’” *Ewell v. Diebert (In re Ewell)*, 958 F.2d
22 276, 281 (9th Cir. 1992) (citations omitted). Conversely, a ‘lack of good faith’ is shown
23 by ‘fraud, collusion between the purchaser and the trustee, or an attempt to take grossly
24 unfair advantage of other bidders.” *Id.*

25 As set forth above and in the Mastan Declaration, the Agreement was negotiated at
26 arms’ length with all parties involved acting in good faith. There are no undisclosed side
27 deals or terms, and the Debtors are not related to the Trustee. Mastan Decl., ¶ 2.

28 ///

1 **5. The Court Should Impose an Overbid Procedure on the Sale**

2 As set forth in the Agreement, the proposed assignment of the Estate's interest in
3 the Vehicles to the Debtors is subject to overbid. The Trustee is prepared to sell the
4 Estate's interest in the Vehicles to the qualified bidder making the best all cash bid. The
5 Trustee requests that the Court impose the overbid procedure set forth in the Notice of
6 this Motion in order to ensure that the Estate's interest in the Vehicles is sold for the best
7 possible price under the circumstances.

8 **V. THE COURT SHOULD WAIVE THE 14-DAY STAY**

9 Fed.R.Bankr.P. 6004(h) provides as follows:

10 An order authorizing the use, sale or lease of property other
11 than cash collateral is stayed until the expiration of 14 days
12 after entry of the order unless the court orders otherwise.

13 The Trustee requests that the Court "order otherwise" here and waive that stay.

14 **VI. THE COURT SHOULD APPROVE THE PROPOSED ABANDONMENT**
15 **OF THE REAL PROPERTY AS PART OF THE TRUSTEE'S**
16 **AGREEMENT WITH THE DEBTOR**

17 The Real Property has little or no value to the Estate. The Debtors' scheduled the
18 Real Property at \$326,756 and the Trustee estimates its value at \$339,000. According to
19 the Debtors' Schedule D, the Real Property is subject to a deed of trust in the outstanding
20 amount of \$197,726.44. The Debtors have claimed a \$100,000 homestead exemption in
21 the Real Property. Ex. 2. Assuming the Trustee's valuation of the Real Property, costs of
22 sale at 8% (i.e., approximately \$27,120), the Trustee's fee for the sale of property
23 (approximately \$22,410), the debtor's exemptions, and the outstanding liens, there is no
24 value to creditors in the Trustee's sale of the Real Property and it should be abandoned.
25 Mastan Decl., ¶ 7.¹

26
27 ¹On March 19, 2014, the Trustee filed a notice of intent to abandon the Real
28 Property. On April 15, 2014, the Court entered an order approving that abandonment. As
such, the Trustee is requesting that the Court approve the abandonment as part of the

1 **VII. CONCLUSION**

2 For the reasons set forth above, the Court should grant the relief requested in the
3 Notice of this Motion.

4
5 DATED: April 16, 2014

Respectfully submitted,

6 CHAPTER 7 TRUSTEE

7
8 By: _____


Peter J. Mastan
Chapter 7 Trustee of the Bankruptcy
Estate of Morel Benjamin Ramirez and
Julia Natsuko Ramirez

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28 overall agreement with the Debtors, but want to make clear that the actual abandonment
of the Real Property has already taken place.

DECLARATION OF PETER J. MASTAN

I, PETER J. MASTAN, declare:

1. I am the Chapter 7 trustee of the bankruptcy estate (the "Estate") of Morel Benjamin Ramirez and Julia Natsuko Ramirez (the "Debtors"). As a result, except as expressly stated as matters of judicial notice, I have personal knowledge of the facts set forth below and could and would competently testify under oath thereto if requested to do so.

2. **Exhibit 1** is an Assignment Agreement (the "Agreement") between the Estate, on the one hand, and the Debtors on the other hand. I negotiated the Agreement as the trustee of the Estate. I have not made, and to the best of my knowledge, nobody else has made, any side deals with the Debtors. To the best of my knowledge, there are no terms to the Agreement except as set forth therein, and I am not related to the Debtors.

3. The Court may take judicial notice that on December 2, 2013, the Debtors filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code and all related schedules. On the same day, I was appointed to administer the Estate.

4. **Exhibit 2** is a copy of Schedules A, B, C and D as filed by the Debtors.

5. At my instructions, the Debtors' had (1) the vehicle described as a 2013 Toyota Sienna ("2013 Sienna"), and (2) the vehicle described as a 2008 Toyota Prius ("2008 Prius") (collectively, the "Vehicles") appraised by Carmax. **Exhibit 3** is a copy of the appraisals that were provided to me by the Debtors.

6. After considering (1) the approximate value and costs of retrieval, storage and sale of the Vehicles, which I estimate to be at least \$2,300 for the 2013 Sienna and \$600 for the 2008 Prius, (2) scheduled liens of \$14,271.74 against the 2013 Sienna, and (3) Debtors' claimed exemptions of \$2,900 in the 2008 Prius, I believe that it is in the best interests of the Estate to sell the Estate's interest in the Vehicles to the Debtors for a total of \$8,000 above Debtors' claimed exemptions, subject to overbid.

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1 7. After considering (1) an independent valuation of the Real Property through
2 www.zillow.com of approximately \$339,000, (2) liens against the Real Property of
3 \$197,726.44; (3) Debtors' claimed exemptions of \$100,000; (4) costs of sale at 8%,
4 which on a property using the Trustee's valuation would be approximately \$27,120; and
5 (5) my fee for the sale of property, which would be an additional \$22,410, I determined
6 that liquidation of the Real Property would not result in a meaningful distribution to
7 creditors and that abandonment of the Real Property would be appropriate.

8
9 I declare under penalty of perjury that the foregoing is true and correct and that this
10 declaration was executed this 16th day of April 2014 at Los Angeles, California.

11
12 
13 _____
14 PETER J. MASTAN
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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: 550 S. Hope Street, Suite 1765, Los Angeles, CA 90071

A true and correct copy of the foregoing document described as: **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 indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(S) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 16, 2014**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addresses indicated below:

- **Peter J Mastan (TR)** pmastan@gumportlaw.com, pmastan@ecf.epiqsystems.com
- **Leonard Pena** lpena@penalaw.com, penasomaecf@gmail.com
- **United States Trustee (LA)** ustpregion16.la.ecf@usdoj.gov

___ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served): On **April 16, 2014** I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

UNITED STATES BANKRUPTCY COURT
 Hon. Barry Russell
 United States Bankruptcy Court
 Edward R. Roybal Federal
 Building and Courthouse
 255 E. Temple Street, Suite 1660
 Los Angeles, CA 90012

DEBTORS
 Morel Benjamin Ramirez
 Julia Natsuko Ramirez
 647 W. 99th St.
 Los Angeles, CA 90044

___ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **April 16, 2014** I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows:. Listing the judge here constitutes a declaration that mailing 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 of America that the foregoing is true and correct.

April 16, 2014
Date

TRAVIS MICHAEL TERRY
Type name



 Signature