

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>JULIET Y. OH (SBN 211414) LEVENE, NEALE, BENDER, YOO & BRILL L.L.P. 10250 Constellation Boulevard, Suite 1700 Los Angeles, California 90067 Telephone: (310) 229-1234 Facsimile: (310) 229-1244 Email: JYO@LNBYB.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Edward M. Wolkowitz, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
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<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>JERRY LEWIS MONTES,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 2:14-bk-33391-NB CHAPTER: 7</p> <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>

<p>Sale Date: 02/09/2016</p>	<p>Time: 11:00 am</p>
<p>Location: 255 East Temple Street, Courtroom 1545, Los Angeles, California 90012</p>	

Type of Sale: Public Private **Last date to file objections:** 01/26/2016

Description of property to be sold:

The Chapter 7 bankruptcy estate's right, title and interest in and to that certain retail/auto commercial use property located at 8229 Somerset Boulevard, Paramount, California 90723 (the "Property").

Terms and conditions of sale:

The Trustee proposes to sell the estate's right, title and interest in and to the Property to Adolfo Montes (the father of the Debtor and a co-owner of the Property), in "as is, where is" condition and with no representations or warranties whatsoever, for the cash purchase price of \$54,000, plus a waiver of claims against the estate by Adolfo Montes. See attached Notice of Motion for further information.

Proposed sale price: \$ 54,000.00

Overbid procedure (if any):

None.

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

Date: February 9, 2016

Time: 11:00 a.m.

Place: Courtroom "1545"
255 East Temple Street
Los Angeles, California 90012

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

Juliet Y. Oh, Esq.
Counsel for Edward M. Wolkowitz, Chapter 7 Trustee
10250 Constellation Blvd., Suite 1700
Los Angeles, California 90064
Tel: (310) 229-1234
Fax: (310) 229-1244
Email: JYO@LNBYB.com

Date: 01/26/2016

1 JULIET Y. OH (SBN 211414)
2 LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.
3 10250 Constellation Boulevard, Suite 1700
4 Los Angeles, California 90067
5 Telephone: (310) 229-1234
6 Facsimile: (310) 229-1244
7 Email: JYO@LNBYB.com

8 Attorneys for Edward M. Wolkowitz,
9 Chapter 7 Trustee

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re

JERRY LEWIS MONTES,

Debtor.

Case No. 2:14-bk-33391-NB

Chapter 7

**AMENDED¹ NOTICE OF CHAPTER 7
TRUSTEE'S MOTION FOR ORDER
(A) AUTHORIZING SALE OF
ESTATE'S RIGHT, TITLE AND
INTEREST IN REAL PROPERTY
LOCATED AT 8229 SOMERSET
BOULEVARD, PARAMOUNT,
CALIFORNIA; AND (B) APPROVING
COMPROMISE OF CONTROVERSY**

Hearing:

Date: February 9, 2016

Time: 11:00 a.m.

Place: Courtroom "1545"

255 East Temple Street

Los Angeles, California 90012

¹ This Notice has been amended solely to correct the time of the hearing on the Motion.

1 **PLEASE TAKE NOTICE** that a hearing will be held on **February 9, 2016, at 11:00**
2 **a.m.**, before the Honorable Neil W. Bason, United States Bankruptcy Judge for the Central
3 District of California, Los Angeles Division, in Courtroom “1545” located at 255 East Temple
4 Street, Los Angeles, California 90012, for the Court to consider the motion (the “Motion”) filed
5 by Edward M. Wolkowitz, the duly appointed Chapter 7 Trustee (the “Trustee”) for the
6 bankruptcy estate (the “Estate”) of Jerry Lewis Montes (the “Debtor”), pursuant to 11 U.S.C.
7 §363(b) and Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure, for an order:
8 (A) authorizing the Trustee to sell the Estate’s right, title and interest in and to that certain
9 retail/auto commercial use property located at 8229 Somerset Boulevard, Paramount, California
10 90723 (the “Property”), pursuant to the terms and conditions set forth in that certain *Asset*
11 *Purchase Agreement* (the “APA”)² between the Trustee and Adolfo Montes (the “Buyer”), a
12 true and correct copy of which APA is attached as Exhibit “1” to the Declaration of Edward M.
13 Wolkowitz annexed to the Motion (the “Wolkowitz Declaration”), free and clear of all liens,
14 claims and encumbrances; and (B) approving the settlement of claims and compromise of
15 controversy provided by the terms of the APA. The complete relief requested and the bases for
16 the Motion are set forth in the Motion and the Memorandum of Points and Authorities and
17 Wolkowitz Declaration.

18 **PLEASE TAKE FURTHER NOTICE** that the Trustee is seeking authority to sell the
19 Estate’s right, title and interest in and to the Property (the “Property Rights”), free and clear of
20 liens, claims and encumbrances, to Adolfo Montes (the “Buyer”), who is the father of the
21 Debtor and the co-owner of the Property, for cash in the sum of \$54,000 (the “Purchase Price”)
22 and other consideration as set forth in the APA, and in accordance with the terms set forth in
23 the APA.

24 **PLEASE TAKE FURTHER NOTICE** that the proposed sale of the Property Rights to
25 the Buyer is anticipated to result in the payment in full of the Debtor’s claimed exemption
26 amount, the estimated allowed administrative expenses of the Estate, and the allowed claims of

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28 ² A copy of the APA may be requested in writing to the Trustee’s bankruptcy counsel, whose name and contact information are set forth on the upper left-hand corner of the first page of this Notice.

1 the Debtor's creditors. On the other hand, if the Trustee is not able to consummate a sale of the
2 Property Rights to the Buyer as proposed in the Motion, the Trustee will likely be forced to
3 litigate with the Buyer regarding what interest (if any) the Debtor and the Estate have in the
4 Property (as the Buyer contends that the Debtor never contributed towards the purchase or
5 maintenance of the Property and therefore, has no actual ownership interest in the Property),
6 before the Trustee can proceed with the marketing and sale of the Property for the benefit of the
7 Estate. In the event such litigation results in a determination that the Debtor has no ownership
8 interest in the Property, the Trustee will have incurred substantial legal fees and costs but will
9 ultimately be prevented from selling and realizing any value from the Property for the benefit of
10 the Debtor's creditors. Even if the litigation ultimately results in a determination that the
11 Debtor has an ownership interest in the Property (thereby allowing the Trustee to market and
12 sell the Property), the Estate will likely have incurred substantial legal fees and costs, and the
13 Trustee will still be left with a potential fight with the Buyer regarding the allowance of the
14 proof of claim filed by the Buyer (pursuant to which the Buyer asserts a general unsecured
15 claim in the sum of \$250,000), which if allowed, could potentially result in a less than 100%
16 recovery for creditors in the Debtor's case. Given the risks and costs associated with any
17 litigation, and the fact that litigation with the Buyer will not result in any affirmative recovery
18 for the Estate in any case, the Trustee submits that the proposed sale of the Property Rights,
19 which will result in the payment of all allowed claims and all allowed administrative expenses
20 of the Estate, is overwhelmingly in the best interests of the Estate and therefore represents a
21 sound exercise of the Trustee's business judgment

22 **PLEASE TAKE FURTHER NOTICE** that, given the nature of the Property Rights,
23 the Trustee believes there is a limited pool of buyers for the Property Rights as third party
24 buyers generally do not desire to bid on partial ownership rights in real property. That limited
25 pool of buyers essentially consists of the Debtor and the Buyer (who is the co-owner of the
26 Property). Since the Trustee is seeking to sell the Property Rights to the most likely buyer for
27 such assets (*i.e.*, the Buyer) for a purchase price that is anticipated to be sufficient to pay all
28 administrative expenses and allowed claims of the Estate in full, the Trustee does not believe

1 that any further marketing efforts or solicitation of overbids is warranted or appropriate in
2 connection with the sale of the Property Rights.

3 **PLEASE TAKE FURTHER NOTICE** that, to the extent the proposed sale of the
4 Property Rights to the Buyer, upon the terms and conditions set forth in the APA, is deemed a
5 settlement of claims and compromise of controversy, the Trustee is seeking Court approval of
6 the proposed sale of the Property Rights pursuant to Rule 9019 of the Federal Rules of
7 Bankruptcy Procedure.

8 **PLEASE TAKE FURTHER NOTICE** that a complete copy of the Motion may be
9 requested in writing to Levene, Neale, Bender, Yoo & Brill L.L.P., 10250 Constellation Blvd.,
10 Suite 1700, Los Angeles, California 90067, Attention: Juliet Y. Oh, Fax: (310) 229-1244,
11 Email: JYO@LNBYB.com.

12 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-
13 1(f), any interested party that wishes to oppose the relief requested in the Motion must, not later
14 than fourteen (14) days prior to the scheduled hearing date set forth above, file with the Clerk of
15 the Court and serve upon counsel for the Trustee (whose name and address are set forth on the
16 upper left-hand corner of the first page of this Notice) and the Office of the United States
17 Trustee, “[a] complete written statement of all reasons in opposition thereto ..., declarations and
18 copies of all photographs and documentary evidence on which the responding party intends to
19 rely, and any responding memorandum of points and authorities.” Pursuant to Local
20 Bankruptcy Rule 9013-1(h), the failure to file and serve a timely opposition to the Motion may
21 be deemed by the Court to constitute consent to the relief requested in the Motion.

22 Dated: January 26, 2016

EDWARD M. WOLKOWITZ, CHAPTER 7 TRUSTEE

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24 

25
26 By: _____

JULIET Y. OH
LEVENE, NEALE, BENDER, YOO
& BRILL L.L.P.

Attorneys for Edward M. Wolkowitz, Trustee

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PROOF OF SERVICE OF DOCUMENT

1 I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business
2 address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

3 A true and correct copy of the foregoing document entitled **NOTICE OF SALE OF ESTATE PROPERTY**
4 will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR
5 5005-2(d); and **(b)** in the manner stated below:

6 **1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to
7 controlling General Orders and LBR, the foregoing document will be served by the court via NEF and
8 hyperlink to the document. On **January 26, 2016**, I checked the CM/ECF docket for this bankruptcy case
9 or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List
10 to receive NEF transmission at the email addresses stated below:

- 11 • **Gary Leibowitz** attorneygary@gmail.com
- 12 • **Juliet Y Oh** jyo@lnbrb.com, jyo@lnbrb.com
- 13 • **Jeffrey B Smith** jsmith@cgsattys.com, vphillips@cgsattys.com
- 14 • **United States Trustee (LA)** ustpreion16.la.ecf@usdoj.gov
- 15 • **Edward M Wolkowitz (TR)** emwtrustee@lnbrb.com, ewolkowitz@ecf.epiqsystems.com

16 **2. SERVED BY UNITED STATES MAIL:** On **January 26, 2016**, I served the following persons and/or
17 entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true
18 and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and
19 addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be
20 completed no later than 24 hours after the document is filed.

21 Service information continued on attached page

22 **3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR**
23 **EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR,
24 on **January 26, 2016**, I served the following persons and/or entities by personal delivery, overnight mail
25 service, or (for those who consented in writing to such service method), by facsimile transmission and/or
26 email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight
27 mail to, the judge will be completed no later than 24 hours after the document is filed.

28 **Served via Attorney Service**

Hon. Neil W. Bason
United States Bankruptcy Court
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1552 / Courtroom 1545
Los Angeles, CA 90012

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

January 26, 2016	Stephanie Reichert	/s/ Stephanie Reichert
<i>Date</i>	<i>Type Name</i>	<i>Signature</i>

0973-2
Case 2:14-bk-33391-NB
Central District Of California
Los Angeles
Wed Aug 5 17:37:11 PDT 2015

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NC4-105-01-52
Greensboro, NC 27420-6012

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(p)BANK OF AMERICA
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Lakewood, CA 90713-3226