

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Peter J. Mastan, Trustee 550 S. Hope St., Suite 1765 Los Angeles, CA 90071 (213) 452-4900 pmastan@gumportlaw.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Jeremy Faith, Ch. 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION**

<p>In re:</p> <p style="text-align: center;">JOSE LUIS DIAZ</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 9:13-BK-12351-PC CHAPTER: 7</p> <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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<p>Sale Date: 07/29/2014</p>	<p>Time: 10:30 am</p>
<p>Location: The Estate's record 50% interest in and to the real property commonly known as</p>	

Type of Sale: Public Private **Last date to file objections:** 07/15/2014

Description of property to be sold: The Estate's record 50% interest in and to the real property commonly known as 2909 Sugarpine Way, Modesto, CA 95355.

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

Proposed sale price: \$ 72,500.00

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): Initial bid of \$77,500. Subsequent bids may be made in \$2,500 increments. See attached Notice of hearing for details.

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, Esq.
Gumport | Mastan
550 S. Hope Street, Suite 1765
Los Angeles, CA 90071
(213) 452-4900
pmastan@gumportlaw.com

Date: 06/03/2014

E-FILED
DATE: 7/3/14

1 PETER J. MASTAN, (Bar No. 190250)
2 *pmastan@gumportlaw.com*
3 550 South Hope Street, Suite 1765
4 Los Angeles, California 90071-2627
5 Telephone: (213) 452-4900

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8 Attorneys for Jeremy W. Faith, Chapter 7 Trustee
9 of the Bankruptcy estate of Jose Luis Diaz
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11 **UNITED STATES BANKRUPTCY COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **LOS ANGELES DIVISION**

14 In re

15 JOSE LUIS DIAZ

16 Debtor.

Bk. No.: 9:13-BK-12351-PC

CHAPTER 7

**NOTICE OF HEARING ON MOTION
TO APPROVE ASSIGNMENT
AGREEMENT BETWEEN (A) THE
TRUSTEE AND (B) DOMITILIA DIAZ
aka DOMITILIA POSADO FOR THE
TRUSTEE'S CONVEYANCE OF THE
ESTATE'S INTEREST IN REAL
PROPERTY**

DATE: July 29, 2014
TIME: 10:30 a.m.
PLACE: 1415 State Street
Courtroom 201
Santa Barbara, CA 93101
[Judge Peter Carroll]

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1 **TO THE HONORABLE PETER CARROLL, DOMITILIA DIAZ aka**
2 **DOMITILIA POSADO, THE OFFICE OF THE UNITED STATES TRUSTEE,**
3 **THE DEBTOR, ALL POTENTIAL CREDITORS OF THE ESTATE, ALL**
4 **OTHER INTERESTED PARTIES; AND COUNSEL OF RECORD:**

5 NOTICE IS HEREBY GIVEN that, on July 29, 2014, on the 10:30 a.m.
6 calendar, in Courtroom 201 of the United States Bankruptcy Court located at 1415 State
7 Street, Santa Barbara, California 93101, the Honorable Peter Carroll, United States
8 Bankruptcy Judge, will conduct a hearing on the motion (the "Motion") of Jeremy W.
9 Faith, Chapter 7 trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Jose Luis
10 Diaz (the "Debtor"), for an order that does each of the following:

11 (1) Approves the Assignment Agreement (the "Agreement") attached as
12 **Exhibit 1** to the Motion.

13 (2) Authorizes the Trustee, subject to overbid, to assign to Domitilia Diaz aka
14 Domitilia Posado (the "Assignee") for \$72,500 the Estate's record 50% interest (the
15 "Estate's Interest") in the real property commonly known as "2909 Sugarpine Way,
16 Modesto, CA 95355" (the "Property") on an "AS IS" and "WHERE IS" basis, subject to
17 all existing encumbrances, liens, claims, interests, and restrictions thereon, if any.

18 (3) At the close of the escrow as set forth in the Agreement, and concurrently
19 with the payment from escrow of \$72,500 to the Trustee, authorizes the recordation of a
20 deed of trust against the Property by a third party lender as part of a refinance of the
21 Property by the Assignee.

22 (4) Determines that the Agreement was made in good faith in an arm's-length
23 transaction and that the assignee of the Estate's Interest in the Property (whether the
24 Assignee, or a successful overbidder) is acting in good faith within the meaning of
25 11 U.S.C. § 363(m).

26 (5) Determines that adequate notice of the hearing on the Motion for approval
27 of the Agreement was given.

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

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

5 (8) Approves the following overbid procedure:

6 (a) any initial overbid for an assignment of the Estate's Interest in the
7 Property must be in an amount at least \$5,000 greater than the amount to be paid by
8 Assignee under this Agreement (i.e., in an amount not less than \$77,500);

9 (b) any overbid must be received by the Trustee no later than July 24,
10 2014;

11 (c) in the event that the Trustee receives multiple overbids, any
12 subsequent overbids must be made in Court at the time of the hearing on the Motion and
13 must be made in minimum increments of \$2,500.

14 (d) any overbid must be accompanied by a certified or cashier's check in
15 the full amount of that bid and the successful overbidder must pay to the Trustee by
16 certified or cashier's check the full purchase price at the time of the hearing on the
17 Motion; or alternatively delivers to the Trustee at the hearing on the Motion a cashier's
18 check in the amount of \$2,325 along with documentary evidence acceptable to the
19 Trustee reflecting that the overbidder has sufficient liquid assets to pay the full balance of
20 the overbid amount within 15 days of that hearing.

21 (e) any assignment from overbid will be "AS IS", "WHERE IS", and
22 with no contingencies or warranties whatsoever, whether express or implied, including as
23 to functionality, merchantability, habitability, or fitness for a particular purpose and will
24 be subject to all existing encumbrances, liens, claims, interests, and restrictions thereon,
25 if any; and

26 (f) the Trustee may exercise his discretion to reject a particular overbid
27 that is not both higher and better (based upon all of the circumstances) than the
28 Assignee's offer or the offer of other overbidders.

1 (9) Authorizes the Trustee to close the proposed assignment of the Estate's
2 Interest in the Property to the Assignee (or the successful overbidder) unless an appeal of
3 the order authorizing that sale is timely filed and a stay pending appeal is entered.

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

6 **NOTICE IS FURTHER GIVEN** that the Motion is made pursuant to 11 U.S.C.
7 §§ 363(b) and 363(m), Federal Rules of Bankruptcy Procedure 2002 and 6004, and Local
8 Bankruptcy Rules 6004-1 and 9013-1 on the grounds that the proposed assignment is in
9 the best interests of the Estate in that it will maximize the value to unsecured creditors of
10 the Estate's interests in the Property.

11 **NOTICE IS FURTHER GIVEN** that the Motion is based on (a) this Notice of
12 Hearing on Motion; (b) the concurrently filed Notice of Motion and Motion,
13 Memorandum of Points and Authorities, Declaration of Jeremy W. Faith, and Exhibits;
14 (c) the pleadings on file with the Court of which the Court is requested to take judicial
15 notice; and (d) such further evidence that may be properly submitted prior to or at any
16 hearing on the Motion. At your own expense, you may obtain a complete copy of the
17 Motion from the Court's file or by contacting Mr. Victor Rivera of Discovery Document
18 Reproduction Services at Tel. No. (213) 312-0033.

19 **NOTICE IS FURTHER GIVEN that, pursuant to Local Bankruptcy Rule**
20 **9013-1(f), any opposition to the Motion must be in writing; must be filed with the**
21 **Court and served upon the Trustee, the Office of the United States Trustee, the**
22 **Assignee, and the Debtor at the addresses set forth below not less than 14 days**
23 **before the hearing on the Motion; and must include a complete written statement of**
24 **all reasons in opposition thereto or in support or joinder thereof, declarations and**
25 **copies of all photographs and documentary evidence on which the responding party**
26 **intends to rely, and any 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 1415 State Street
5 Santa Barbara, CA 93101

4 **For Service on Peter Carroll,
Bankruptcy Judge**

5 Hon. Peter Carroll
6 United States Bankruptcy Court
7 Central District of California
8 United States Bankruptcy Court
9 1415 State Street / Suite 230
10 Santa Barbara, California 93101-2511

8 **For Service on the Trustee**

9 Jeremy W. Faith, Trustee
10 c/o Peter J. Mastan, Esq.
11 Gumport | Mastan
12 550 S. Hope Street, Suite 1765
13 Los Angeles, CA 90071

For Service on Office of U.S. Trustee

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

For Service on the Assignee

Jessica Dorn, Esq.
Law Offices of Mark S. Nelson
215 McHenry Avenue
Modesto, CA 95354

and

Domitilia Diaz aka Domitilia Posado
2909 Sugarpine Way
Modesto, CA 95355

For Service on the Debtor

Jose Luis Diaz
5485 Southwind Court #108
Ventura, CA 93003

13 **NOTICE IS FURTHER GIVEN that, pursuant to Local Bankruptcy Rule**
14 **9013-1(h), failure to timely file and serve an objection may be deemed by the Court**
15 **to be consent to granting the Motion.**

17 DATED: July 3, 2014

Respectfully submitted,

GUMPORT | MASTAN

20 By: _____



Peter J. Mastan

21 Attorneys for Plaintiff Jeremy W. Faith,
22 Chapter 7 Trustee of the Bankruptcy Estate of
23 Jose Luis Diaz
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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: Gumport | Mastan, 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 **July 3, 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:

X Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served): On **July 3, 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.

SERVED BY FEDERAL EXPRESS

UNITED STATES BANKRUPTCY COURT

Hon. Peter H. Carroll
United States Bankruptcy Judge
1415 State Street, Suite 230
Santa Barbara, CA 93101-2511

X 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 _____ 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.

July 3, 2014 **TRAVIS MICHAEL TERRY**
Date Type name

Signature



ADDITIONAL SERVICE INFORMATION (if needed):

SERVED BY THE COURT VIA NEF

Jeremy W Faith(TR)	jfaith@7trustee.net, C118@ecfbis, Helen@MarguliesFaithLaw.com, leedowding@gmail.com
Daniel A Higson United States Trustee(ND)	deanna@hcmlawfirm.com, echeney@hcmlawfirm.com, hcmmcfcf@gmail.com ustpregion16.nd.ecf@usdoj.gov

SERVED BY U.S. MAIL

DEBTOR

Jose Luis Diaz
5485 Southwind Court, #108
Ventura, CA 93003-0493

ASSIGNEE

Jessica Dorn, Esq.
Law Offices of Mark S. Nelson
215 McHenry Avenue
Modesto, CA 95354

Domitilia Diaz aka Domitilia Posado
2909 Sugarpine Way
Modesto, CA 95355