

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Leonard M. Shulman – State Bar No. 126349 Michael J. Petersen – Bar No. 169733 SHULMAN HODGES & BASTIAN LLP 8105 Irvine Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lshulman@shbllp.com; mpetersen@shbllp.com <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 7 Trustee	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

In re: CARSON VALLEY, LLC, Debtor(s).	CASE NO.: 8:10-bk-24665-TA CHAPTER: 7 <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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Sale Date: 03/26/2013	Time: 11:00 am
Location: Courtroom 5B, Fifth Floor, U.S. Bankruptcy Court, 411 West Fourth Street, Santa Ana, CA 92701	

Type of Sale: Public Private **Last date to file objections:** 03/12/2013

Description of property to be sold: Real Property located in the City of Carson, County of Los Angeles, California;
Assessor Parcel No. 7336-003-030.

Terms and conditions of sale: Free and clear of certain liens pursuant to Bankruptcy Code §§ 363(b)(1) and (f) and
subject to overbids. See attached for additional terms.

Proposed sale price: \$ 2,050,000.00

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): See attached.

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

March 26, 2013 at 11:00 a.m.

Courtroom 5B, Fifth Floor

U.S. Bankruptcy Court

411 West Fourth Street

Santa Ana, CA 92701

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

Leonard M. Shulman, Esq. and Michael J. Petersen, Esq.

Shulman Hodges & Bastian LLP

8105 Irvine Center Drive, Suite 600

Irvine, CA 92618

Tel: (949) 340-3400

Fax: (949) 340-3000

Email: lshulman@shbllp.com; mpetersen@shbllp.com

Date: 03/05/2013

1 **In re Carson Valley, LLC**
2 **Case No. 8:10-bk-24665-TA**

3 **Attachment to Notice of Sale of Estate Property:**

4 **I. INTRODUCTION**

5 John M. Wolfe, the Chapter 7 Trustee (“Trustee”) for the bankruptcy estate (“Estate”) of
6 Carson Valley, LLC (“Debtor”), has filed a Motion for Order: (1) Approving the Sale of Real
7 Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code §§ 363(b)(1)
8 and (f) and Subject to Overbids, Combined With Notice of Bidding Procedures and Request for
9 Approval of the Bidding Procedures Utilized; and (2) Granting Related Relief (“Sale Motion”).

10 The Trustee has received an offer from HPP Acquisitions, LLC (“Buyer”) to purchase the
11 real property located in the County of Los Angeles, City of Carson, California, Parcel No. 7336-
12 003-030 (“Property”) for \$2,050,000, subject to overbids. The Property consists of
13 approximately 14.46 acres of undeveloped land located East of Figueroa Street, West of Main
14 Street, North of Torrance Boulevard and South of the Torrance Lateral Flood Control Channel.

15 The Property is a development challenge and is considered a “brownfield.” A brownfield
16 is a property, the expansion, redevelopment, or reuse of which may be complicated by the
17 presence or potential presence of a hazardous substance, pollutant, or contaminant. The Property
18 is the site of a former landfill and according to the California Department of Toxic Substances
19 Control (“DTSC”), the Property is contaminated with hazardous substances. Prior to the Petition
20 Date, the DTSC was overseeing cleanup actions at the Property and has incurred environmental
21 response costs in connection with the Property.

22 The DTSC holds the only non-priority general unsecured claim filed against the Estate,
23 having filed a proof of claim in the amount of \$1,066,000. The other claims against the Estate
24 are the pre-petition claim of the Los Angeles County Treasurer and Tax Collector for real
25 property taxes in the total amount \$1,159,416.70 (Claim No. 1), the Los Angeles County
26 Treasurer and Tax Collector’s administrative claim of \$104,032.55 for post-petition real property
27 taxes (Claim No. 2), and the priority claim of the Office of the United States Trustee for unpaid
28 Chapter 11 quarterly fees of \$325 (Claim No. 3).

1 It is anticipated that the Tax Collector will be paid in full through escrow on the sale of
2 the Property. The Trustee believes that the Tax Collector, the Office of the United States Trustee
3 and the DTSC will have no objection to the proposed sale of the Property.

4 The Trustee is unaware of any monetary liens against the Property other than the liens for
5 real property taxes asserted by the Los Angeles County Treasurer and Tax Collector. Out of an
6 abundance of caution, the Trustee seeks to sale the Property free and clear of liens and
7 encumbrances that are not approved by the Buyer and not resolved through the sale.

8 While this case was a Chapter 11 proceeding, the Debtor obtained a Court order (docket
9 number 79), authorizing the sale of the Property to VA Property Group, LLC for \$2,000,000.
10 However, VA Property Group, LLC failed to close on the sale and failed to terminate the escrow
11 within the time period required under the terms of the asset purchase agreement approved by the
12 Court¹. As such, the Trustee has asserted that the Estate is entitled to turnover of the VA
13 Property Group, LLC non-refundable deposit funds of \$10,000 held in escrow from the failed
14 transaction and may have a claim for an additional \$40,000 that was required to be deposited by
15 VA Property Group, LLC after the feasibility period expired under the operative asset purchase
16 agreement approved by the Court. The Trustee is communicating with VA Property Group, LLC
17 and the escrow on this prior failed transaction regarding the Estate's claims for the turnover of
18 the non-refundable deposit funds of up to \$50,000, and if necessary, will bring a separate motion
19 or adversary proceeding for turnover.

20 Through the sale to HPP Acquisitions, LLC, the Estate will be responsible for the cost of
21 a CLTA Title Policy, updated property survey, payment of outstanding property taxes and all
22 transfer and documentary fees and taxes. Escrow fees will be split equally by between the Estate
23 and HPP Acquisitions, LLC. Through the sale, the Estate will not be required to pay any
24 brokerage fee as HPP Acquisitions, LLC will be responsible for payment of a brokerage
25 commission to its own broker, Lee & Associates | Industry, Inc. The Trustee has not employed a
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27 ¹ The Trustee is further advised that following Court approval of the sale to VA Property
28 Group, LLC, the final form of the asset purchase agreement submitted to escrow was
substantially different than the form presented to the Court for approval. Specifically, the
final form submitted to escrow contained an extended due diligence period that was not
included in the asset purchase agreement submitted to and approved by the Court.

1 broker for the Property and will not incur costs associated with broker commissions. As such,
2 the costs of the sale will be substantially reduced from the failed transaction that had been
3 proposed by the Debtor which had called for a five percent commission to the Debtor's
4 Managing Member, Point Center Financial, Inc.. Point Center Financial, Inc., which has since
5 filed its own Chapter 11 bankruptcy petition, Case No. 8:13-bk-11495-TA.

6 The Trustee believes that the proposed sale, subject to overbids, will be at fair market
7 value because it is the best offer the Estate has received thus far for the Property, is for \$50,000
8 more than had been previously been approved under the Prior Sale Order and does not obligate
9 the Estate to pay for any broker commissions. Given that the sale is subject to overbids, it is
10 anticipated that the Trustee will receive the best and highest value for the Property and therefore
11 the proposed sale price of the Property is fair and reasonable.

12 The offer from HPP Acquisitions, LLC is the best offer that the Estate has received for
13 the Property. Through the sale, the Trustee is expected to generate proceeds of approximately
14 \$663,550.75 for the benefit of the Estate and its creditors. Further, in the event the purchase
15 price is increased by a successful overbid, the estimated net proceeds will increase and provide
16 greater distribution to creditors.

17 The Trustee does not want to lose this beneficial business opportunity for the Property
18 that has a limited market due to Property being contaminated with hazardous substances. Thus,
19 the Trustee has made a business decision that it is in the best interest of the creditors of the Estate
20 that this Sale Motion be approved.

21 **II. RELEVANT FACTS**

22 **A. Case Commencement**

23 The Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code October
24 15, 2010 ("Petition Date"). Pursuant to Court order entered on July 6, 2012 (docket number 98),
25 the case was converted to Chapter 7 and the Trustee was thereafter appointed to administer the
26 Chapter 7 Estate.

27 **B. Claims in the Case**

28 The last date for filing claims in this case was January 8, 2013 (government claims were

1 due by January 2, 2013). The following chart sets forth the claims that have been filed in this
2 case:

<u>Claim No. and Creditor</u>	<u>Classification and Description of Claim</u>	<u>Amount</u>
Claim No. 1 (as Amended) Los Angeles County Treasurer and Tax Collector ²	Secured for unpaid real property taxes	\$1,159,416.70
Claim No. 2 California Department of Toxic Substances Controls	Non-Priority General Unsecured for environmental cleanup and response costs	\$1,066,000 (not less than)
Claim No. 3 Los Angeles County Treasurer and Tax Collector	Administrative for secured unpaid real property taxes	\$104,032.55
Claim No. 4 (as Amended) Office of the United States Trustee	Priority Unsecured Claim for Chapter 11 quarterly fees	\$325

12
13 It is anticipated that the Los Angeles County Treasurer and Tax Collector will be paid in
14 full through escrow on the sale of the Property.

15 **C. The Property**

16 The principal the asset of the Estate is real property located in the County of Los
17 Angeles, City of Carson, California, Parcel No. 7336-003-030. The Property is legally described
18 as follows:³

19 PARCEL 4, IN THE CITY OF CARSON, COUNTY OF LOS
20 ANGELES, STATE OF CALIFORNIA, AS PER MAP
21 RECORDED IN BOOK 62 PAGE 68 OF PARCEL MAPS, IN
22 THE OFFICE OF THE COUNTY RECORDER OF SAID
23 COUNTY.

24 EXCEPTING FROM THAT PORTION INCLUDED WITHIN
25 LOTS 38, 39 AND 44 OF TRACT NO. 6378, ALL OIL, GAS,
26 HYDROCARBON SUBSTANCES AND OTHER MINERALS
27 IN AND UNDER SAID LAND WITH THE RIGHT TO DRILL
28 FOR, MINE, EXTRACT, TAKE AND REMOVE THE SAME
FROM ANY WELLS OR SHAFTS LOCATED ON ANY LAND

26 ² A January 31, 2013 Preliminary Title Report on the Property indicates the amount owed to
the Los Angeles County Treasurer and Tax Collector for defaulted taxes is \$1,645,356.21 as
of February 28, 2013.

28 ³ The legal description for the Property is believed to be accurate but may be corrected or
updated by the title company in the transfer documents as necessary to complete the
proposed sale transaction.

1 ADJACENT TO THE ABOVE DESCRIBED LAND WITHOUT
2 ACCOUNTING TO THE GRANTEE FOR ANY RENTALS,
3 ROYALTIES OR PROCEEDS FROM THE SALE OF SUCH
4 MINERALS, AS RESERVED IN DEED FROM SUNSET OIL
5 COMPANY, RECORDED AUGUST 2, 1944 IN BOOK 20925
6 PAGE 72 OF OFFICIAL RECORDS.

7 ALSO EXCEPT ALL OIL, GAS AND OTHER
8 HYDROCARBON SUBSTANCES AND ALL OTHER
9 MINERALS IN AND UNDER SAID LAND (EXCEPT THE
10 SOUTH 350 FEET OF LOTS 36 AND 37), AS RESERVED BY
11 SUNSET OIL COMPANY, A CORPORATION IN DEED
12 RECORDED JULY 1, 1955 IN BOOK 48230, PAGE 289 OF
13 OFFICIAL RECORDS AND BY SUNSET INTERNATIONAL
14 PETROLEUM CORPORATION, A CORPORATION IN DEED
15 RECORDED JULY 20, 1960 IN BOOK D-916 PAGE 193 OF
16 OFFICIAL RECORDS.

17 ALSO EXCEPT FROM SAID LAND THAT PORTION LYING
18 WITHIN THE LINES OF LOT 91 TRACT NO. 4671, ALL OIL,
19 GAS, PETROLEUM AND OTHER HYDROCARBON
20 SUBSTANCES WHICH LIE BELOW A PLANE OF 500 FEET
21 FROM THE SURFACE OF SAID LAND AS EXCEPTED IN
22 THE DEED FROM DEL AMO ESTATE COMPANY, A
23 CORPORATION, RECORDED NOVEMBER 8, 1963 IN BOOK
24 D-2250 PAGE 748 OF OFFICIAL RECORDS.

25 ASSESSOR'S PARCEL NUMBER: 7336-003-030

26 The Property consists of approximately 14.46 acres of undeveloped land. The Trustee is
27 advised that the Property is the site of a former landfill and according to the DTSC, the Property
28 is contaminated with hazardous substances.

29 The Property was part of the Gardena Valley 1 & 2 landfill located in the City of Carson.
30 The dump site reportedly operated between November 1956 and October 1959 and accepted
31 approximately 440,000 cubic yards of waste using a cut and fill operation. The Trustee is
32 advised that prior to the Petition Date, the DTSC was overseeing cleanup actions at the Property
33 and had incurred substantial environmental response costs in connection with the cleanup.⁴

34 ⁴ The Trustee is advised that a Remedial Investigation Report dated July 1991 and a Final
35 Remediation Action Plan for Wastefill Operable Unit dated June 1992 was prepared for
36 London Pacific Investments, Inc. by Bryan A Stirrat & Associates Inc. The DTSC
37 reports that London Pacific Investments, Inc. failed to complete the remedial design due
38 to financial difficulties and issued a Final Determination of Non-Compliance. In 1999
concerns at the DTSC about possible gas emissions and to facilitate a future sale of the
site engaged a contractor who completed the remedial design using state funds.
Documents pertinent to this Property and the DTSC actions are available on the DTSC

1 In its Bankruptcy Schedule A, the Debtor listed the value of the Property as “unknown”.
2 In its Bankruptcy Schedule D, the Debtor listed the lien in favor of Tax Collector in the amount
3 of “unknown”.

4 Due to the Property being contaminated with hazardous substances as identified by the
5 DTSC, the Trustee believes that the value of the Property has been substantially impaired.
6 Although the Property may be worth substantially more than the proposed sale price herein once
7 all remediation of the former dump site has been completed, the risks and costs to fully clean up
8 the Property are unknown at this time and have negatively impacted the marketability of the
9 Property.

10 **D. The Prior Failed Escrow for the Sale of the Property**

11 While this case was a Chapter 11 proceeding, on March 2, 2012, the Debtor obtained a
12 Court order (“Prior Sale Order”) (docket number 79), authorizing the sale of the Property to VA
13 Property Group, LLC for \$2,000,000. Attached as **Exhibit 1** to the Declaration of John M.
14 Wolfe (“Wolfe Declaration”) annexed to the Sale Motion is a true and correct copy of the Prior
15 Sale Order.

16 VA Property Group, LLC failed to close on the purchase of the Property under the Prior
17 Sale Order and failed to terminate the escrow within the time period required under the terms of
18 the asset purchase agreement approved by the Court⁵. Attached as **Exhibit 2** to the Wolfe
19 Declaration annexed to the Sale Motion is a true and correct copy of the Debtor’s motion to the
20 Court to approve the sale of the Property to VA Property Group, LLC (“Debtor’s Sale Motion”)
21 (docket number 61). Annexed to the Debtor’s Sale Motion as Exhibit 1 was a copy of the
22 proposed asset purchase agreement with VA Property Group, LLC. As such, the Trustee has
23 asserted that the Estate is entitled to turnover of the VA Property Group, LLC non-refundable
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25 website at www.dtsc.ca.gov at the “EnviroStar” link which is searchable by site name and
26 city location. As set forth above, the DTSC has filed a proof of claim in Debtor’s case in
the amount of not less than \$1,066,000.

27 ⁵ The Trustee is further advised that following Court approval of the sale to VA Property
28 Group, LLC, the final form of the asset purchase agreement submitted to escrow was
substantially different than the form presented to the Court for approval. Specifically, the
final form submitted to escrow contained an extended due diligence period that was not
included in the asset purchase agreement submitted to and approved by the Court.

1 deposit funds of \$10,000 held in escrow from the failed transaction and may have a claim for an
2 additional \$40,000 that was required to be deposited by VA Property Group, LLC after the
3 feasibility period expired. The Trustee is communicating with VA Property Group, LLC and the
4 escrow holder on this prior failed transaction regarding the Estate's claims for the turnover of the
5 non-refundable deposit funds of up to \$50,000, and if necessary, will bring a separate motion or
6 adversary proceeding for turnover.

7 As set forth below, the Trustee's proposed sale of the Property to HPP Acquisitions, LLC
8 is substantially more beneficial than the prior failed transaction that had been proposed by the
9 Debtor and approved by the Court in that:

- 10 • The proposed purchase price is \$50,000 more than failed transaction.
- 11 • The Estate will not be required to pay a broker commission (the Debtor had
12 proposed to pay a broker commission of five percent to Point Center Financial,
13 Inc., the Debtor's managing member).

14 **E. Liens and Encumbrances Against the Property and Their Proposed Treatment**
15 **Through the Sale**

16 The following chart sets forth the liens and encumbrances against the Property as detailed
17 in the Preliminary Title Report dated January 31, 2013, a copy of which is attached as **Exhibit 3**
18 to the Wolfe Declaration annexed to the Sale Motion and the proposed treatment of the liens and
19 encumbrances through the sale:

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<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
Los Angeles County Treasurer and Tax Collector	Real property taxes	\$1,263,449.25 ⁶	All outstanding real property taxes will be paid through escrow on the sale transaction. Thus, this lien will be released, discharged and terminated at the close of escrow and the Property will be sold free and clear of this lien and the lien will not attach to the sale proceeds.
Watt/Walder Limited Partnership, as lessor and L.S. Cellular Telephone Company as Lessee	Notice of Non-Responsibility related to an unrecorded lease recorded July 7, 1992, Instrument No. 92-1224352	\$.00	The Property will be sold subject to this recording.

⁶ Amount owed is based on the total of Claims 1 and 3 filed by the Los Angeles County Treasurer and Tax Collector. The January 31, 2013 Preliminary Title Report indicates the amount owed to the Los Angeles County Treasurer and Tax Collector for defaulted taxes is \$1,645,356.21 as of February 28, 2013 and that the taxes owed for the fiscal year 2013-2014 is \$113,242.24.

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<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
City of Carson Redevelopment Agency	The fact that the Property is included within a project area of the City of Carson Redevelopment Agency, and that proceedings for the redevelopment of the Property have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document recorded October 29, 2007, Instrument No. 20072435437, of Official Records; and Recorded: October 29, 2007, Instrument No. 20072435438, of Official Records; and Recorded: October 29, 2007, Instrument No. 20072435439, of Official Records; and Recorded: October 29, 2007, Instrument No. 20072435440, of Official Records and a further document Recorded October 19, 2010, Instrument No. 2010-1493638, of Official Records.	\$.00	The Property will be sold subject to these recordings.

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All costs of sale including escrow fees and real estate commissions (real estate
commission cost to be paid by the Buyer) will be paid at closing. In addition, all outstanding real
property taxes will be paid through the sale.

1 **F. The Purchase Offer and Summary of the Sale Terms**

2 The Trustee has received an offer from HPP Acquisitions, LLC (“Buyer”) to purchase the
3 Property for \$2,050,000. Attached as **Exhibit 4** to the Wolfe Declaration annexed to the Sale
4 Motion is a true and correct copy of the Asset Purchase Agreement with the Buyer.⁷

5 The Buyer is not related to anyone connected to the Debtor, the Debtor’s Estate, the
6 Trustee, the Trustee’s agents, employees and/or counsel or any other party in interest in this case.

7 A summary of the Agreement’s terms and highlights are discussed below, but the
8 summary and discussion are not meant to be a complete review of every provision of the
9 Agreement. The Agreement itself is the legally binding document the Trustee seeks approval of
10 and, in the event of any inconsistency between the terms, provisions or effect of the Agreement
11 and the description of it in these pleadings, the Agreement alone shall govern and not these
12 pleadings or the descriptions herein. In summary, the principal terms of the sale of the Property
13 shall be as follows (the Trustee is referred to at times as the “Seller” in the following summary):

14		
15	Buyer:	HPP Acquisitions, LLC c/o Hager Pacific Properties 4100 Newport Place, Suite 8201 Newport Beach, CA 92660 www.hagerpacific.com
16		
17		
18	Purchase Price:	\$2,050,000 subject to the Bidding Procedures set forth below.
19		Includes a \$100,000 earnest money (“Earnest Money”) to be paid to 20 the Escrow Holder. The Earnest Money will be credited to the 21 purchase price at closing and will be fully refundable if Buyer decides 22 not to proceed with the transaction on or before the end of the Due Diligence Period (defined below) or if any conditions precedent to Closing are not satisfied.
23	Escrow Holder and Escrow Closing Date:	The Escrow Holder shall be Commerce Escrow Attn: Tina DeBow 1545 Wilshire Boulevard, Suite 600 Los Angeles, CA 90017 Escrow is scheduled to close within five days after Court approval of the sale.
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28 ⁷ A draft of the Asset Purchase Agreement is attached as Exhibit 4. The parties are
finalizing the final form of the Asset Purchase Agreement which will be filed with the
Court.

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Escrow, Title and Other Costs	<p>All real property taxes and assessments for the current tax year shown in the current county tax bill shall be prorated between Seller and Buyer and charged as of the closing date to the applicable accounts of Seller and Buyer. The sale shall be free and clear of any assessments for real property taxes (other than those prorated as provided above) enforceable against the Property through the closing date of the sale.</p> <p>The Estate will be responsible for the cost of a CLTA Title Policy, updated property survey, payment of outstanding property taxes and all transfer and documentary fees and taxes. Any extended form ALTA coverage, with or without a survey, shall be paid by Buyer.</p> <p>Escrow fees will be split equally by between the Seller and the Buyer</p> <p>Through the sale, the Estate will not be required to pay any brokerage fee as the Buyer will be responsible for payment of a brokerage commission to its own broker, Lee & Associates Industry, Inc. The Trustee has not employed broker for the Property and will not incur costs associated with broker commissions.</p>
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<p>Contingency Period and Buyer's Contingency Removal Date:</p>	<p>The Buyer shall have until 5:00 p.m. Pacific Time on April 15, 2013, to allow Buyer to analyze the feasibility of purchasing the Real Property (such period shall be referred to here as the "Contingency Period"). The Contingency Period shall not be extended by the Buyer. Upon receipt of written request by Buyer, the Trustee, in his sole and absolute discretion, may extend the Contingency Period. Seller shall allow Buyer and Buyer's agents' reasonable access to the Real Property during the Contingency Period. Copies of all environmental reports, surveys and other documents and analyses issued to Buyer as part of Buyer's diligence shall within three (3) days receipt by Buyer be provided to the Trustee and shall be available for review by other potential bidders. Buyer shall cause any agreement entered with any contractor providing diligence services for Buyer to permit Buyer's disclosure of such reports, surveys, documents and analysis to Trustee and other potential bidders and assignment of such reports, surveys, documents and analysis to any Successful Bidder other than Buyer. Buyer shall indemnify Seller and hold Seller harmless from any loss, liability or expense whatsoever arising out of Buyer's right to inspect the Real Property during the Contingency Period. Buyer will not be limited to specific contingencies. During the Contingency Period, the Buyer shall have the right to review and approve in the Buyer's sole discretion all matters concerning the Real Property and any other matter concerning the use, occupancy or condition of the Real Property, including, without limitation the "Contingency Items" described in the Agreement.</p> <p>If the Buyer determines not to proceed with the purchase of the Real Property, then the Buyer shall, on or before the end of the Contingency Period ("Buyer's Contingency Removal Date"), notify the Seller in writing that the Buyer has disapproved any matter concerning the Real Property, and the Buyer, as his sole and only remedy, shall be deemed to have elected to terminate the Agreement. The Deposit shall be returned to the Buyer less any costs associated with Escrow and the Title Policy, and neither party shall have any further rights or obligations under the Agreement except as provided in the Agreement, including, without limitation, the return of all documents, agreements, surveys, reports and other items and materials delivered to or made available to the Buyer in connection with the Agreement. If on or before the expiration of the Contingency Period the Buyer gives the Trustee written notice of approval of all matters concerning the Real Property, or if no written notice of disapproval is received by the Trustee prior to the expiration of the Contingency Period, it shall be conclusively presumed that all the Contingency Items have been satisfied and/or waived by the Buyer. In such case, upon expiration of the Contingency Period, the entire Deposit will be immediately released to the Trustee and become non-refundable subject to the terms of the Agreement, including Buyer's right to termination of this Agreement and refund of the Deposit pursuant to IV.1.a. These release provision will be self-executing and not require any further approval of the Buyer.</p>
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Unknown Contingencies	If the Trustee is unable to complete the sale of the Property because of unknown defects in the title, or because the liens and encumbrances exceed the amounts known to the Trustee, or by being divested of title by the Bankruptcy Court, or because the income tax consequences of the sale are excessive, the Buyer's sole damages will be limited to the refund of its Deposit.
Title and Escrow Charges Paid on Buyer's Default	In the event the Escrow and the Agreement are canceled and terminated due to Buyer's default, Buyer shall pay all title and Escrow cancellation charges.
Bankruptcy Court Approval	The sale is subject to notice to creditors, approval by the Bankruptcy Court, and higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale.
Real Estate Agent Commission	Through the sale, the Estate will not be required to pay any brokerage fee. The Buyer will be responsible for payment of a brokerage commission to its own broker, Lee & Associates Industry, Inc. The Trustee has not employed a broker for the Property and will not incur costs associated with broker commissions.
Purchase Without Warranties	The Buyer acknowledges that it is purchasing the Property from the Seller on an "AS IS - WHERE IS" basis without representations or warranties of any kind, express or implied, being given by the Seller, concerning the value, condition or fitness of purpose for any use thereof. The Buyer acknowledges that it is aware that the Property is considered a "brownfield" and that any expansion, redevelopment, or reuse of the Real Property may be complicated by the presence of hazardous substances, pollutants, or contaminants. The Buyer further acknowledges that it is aware that the Property is the site of a former landfill and according to the DTSC and that prior the Petition Date, the DTSC was overseeing cleanup actions at the Real Property and has incurred environmental response costs in connection with the Real Property. The Buyer is further aware that documents pertinent to the Real Property and the DTSC actions are available on the DTSC website at www.dtsc.ca.gov at the "EnviroStar" link which is searchable by site name and city location. The Buyer represents and warrants that it is purchasing the Property as a result of its own investigations and is not buying the Property pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction or on behalf of the Seller. The Buyer acknowledges that the Buyer has inspected the Property, and upon Bankruptcy Court approval of this Agreement, the Buyer forever waives, for itself, and its successors and assigns, any and all claims against the Debtor, the Estate, John M. Wolfe, as the Trustee of the Estate and in his individual capacity, and his attorneys, agents, and employees, arising or which might otherwise arise in the future concerning the Property.

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Trustee's Liability	The Buyer acknowledges that the Trustee is acting in his official capacity only. No personal liability shall be sought or enforced against the Trustee with regard to the Agreement, including any addendums to the Agreement, the Property, the sale of the Property, or the physical condition of the Property. In the event that the Trustee fails or refuses to complete the transaction for any reason, then the limit of the Trustee's liability is only to return any money paid to the Trustee by the Buyer, without deduction. Prior to and after the closing of escrow, the United States Bankruptcy Court shall have and retain the sole and exclusive jurisdiction over the Property and the Agreement; and all disputes arising before and after closing shall be resolved in said Court. Further, the Trustee has agreed that if a dispute arises, such dispute may initially be resolved through the Mediation Program pending in the United States Bankruptcy Court for the Central District of California.
Hold Harmless	The Buyer understands the terms and conditions of the entire purchase contact and holds the Estate and the, John M. Wolfe, Trustee, and his attorneys including Shulman Hodges & Bastian LLP, agents and employees, harmless from any liabilities arising from this contact.
Jurisdiction of the Bankruptcy Court	Any and all disputes which involve in any manner the Estate or John M.Wolfe, Trustee, arising from the Agreement and/or its addendums or relating in any manner to the Property, shall be resolved only in the United States Bankruptcy Court, Central District of California, Santa Ana Division.
Sale Subject to Overbidding	The sale of the Property is subject to the Bidding Procedures described below.
Outstanding Real Property Taxes	To be paid by through escrow.

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<p>Free and Clear of Liens and Encumbrances</p>	<p>The Property shall be delivered to the Buyer free and clear of all liens and encumbrances of the Los Angeles County Treasurer and Tax Collector.</p> <p>Any other liens and interests against the Property, if any, that are not paid in full through escrow shall attach to the sale proceeds generated through the sale with the same force, effect, validity, and priority as such liens or interests had with respect to the Property prior to the sale <u>except</u> that the lien or encumbrance, if any, impacting the property by Watt/Walder Limited Partnership, as lessor and L.S. Cellular Telephone Company as Lessee arising from the Notice of non-Responsibility related to an unrecorded lease recorded July 7, 1992, Instrument No. 92-1224352 and the recordings by the City of Carson Redevelopment Agency set forth the Preliminary Title Report dated January 31, 2013, shall not be released and the Property will be sold subject to these encumbrances.</p> <p>The Property will be sold free and clear of all liens and encumbrances impacting the Property. The Property shall be delivered to the Buyer free and clear of all liens and encumbrances except for those approved by the Buyer. Out of an abundance of caution, any liens and interests against the Property that are not paid resolved through escrow shall attach to the sale proceeds with the same force, effect, validity, and priority as such liens or interests had with respect to the Property prior to the sale.</p>
<p>Good Faith Finding</p>	<p>The proposed sale has been brought in good faith and has been negotiated on an “arms length” basis. The negotiations with the Buyer have resulted in an offer to sell the Estate’s interest in the Property that will have substantial benefit. Accordingly, the sale is in good faith and should be approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m) at the hearing on this Sale Motion.</p>
<p>Waiver of Rule 6004(h)</p>	<p>The Trustee requests that the Court waive the fourteen-day stay of the order approving the sale of the Property under Federal Rules of Bankruptcy Procedure 6004(h) such that the sale of the Property can close as soon as possible after entry of the Court order approving the Sale Motion and the Agreement.</p>

G. Notice of Bidding Procedures

The Trustee has determined that it would benefit the Estate to permit all interested parties to receive information and bid for the Property instead of selling the Property to the Buyer on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this Estate, the Trustee also seeks Court approval of the following bidding procedures (“Bidding Procedures”):

- a. Potential over bidders must bid an initial amount of at least \$100,000 over the

1 Purchase Price, or \$2,150,000. Minimum bid increments thereafter shall be \$50,000. The
2 Trustee shall have sole discretion in determining which overbid is the best for the Estate and will
seek approval from the Court of the same.

3 b. Overbids must be in writing and be received by the Trustee and the Trustee's
4 counsel, Shulman Hodges & Bastian LLP to the attention of Leonard M. Shulman on or before
**4:00 p.m. (California time) on the date which is one day prior to the hearing on the Sale
Motion.**

5 c. Overbids must be accompanied by a deposit in the form of certified funds in the
6 amount of at least \$150,000 ("Overbid Deposit") payable to "John M. Wolfe, Trustee for the
7 Bankruptcy Estate of Carson Valley, LLC, Case No. 8:10-bk-24665-TA".

8 d. The over bidder must also provide evidence satisfactory to the Trustee of having
9 sufficient specifically committed funds to complete the transaction or a lending commitment for
10 the bid amount and such other documentation relevant to the bidder's ability to qualify as the
11 purchaser of Real Property and ability to close the sale and immediately and unconditionally pay
12 the winning bid purchase price at closing.

13 e. The over bidder must seek to acquire the Property on terms and conditions not
14 less favorable to the Estate than the terms and conditions to which the Buyer has agreed to
15 purchase the Property, including but not limited to completing any due diligence by the same
16 deadline as imposed on the Buyer such that all bidders shall become non-contingent at the
17 conclusion of the Buyer's Contingency Period as provided in the Agreement and closing on the
18 sale of the Property in the same time parameters as the Buyer. For the purposes of bidding, all-
19 cash consideration shall be favored by the Trustee.

20 f. All competing bids must acknowledge that the bidder is purchasing the Real
21 Property from the Seller on an "AS IS - WHERE IS" basis without representations or warranties
22 of any kind, express or implied, being given by the Seller, concerning the value, condition or
23 fitness of purpose for any use thereof. The competing bid must acknowledge that it is aware that
24 the Real Property is considered a "brownfield" and that any expansion, redevelopment, or reuse
25 of the Real Property may be complicated by the presence of hazardous substances, pollutants, or
contaminants. The competing bid must further acknowledge that it is aware that the Real
Property is the site of a former landfill and according to the California Department of Toxic
Substances Control ("DTSC") and that prior the Petition Date, the DTSC was overseeing cleanup
actions at the Real Property and has incurred environmental response costs in connection with
the Real Property. The competing bid must acknowledge the bidder is aware that documents
pertinent to the Real Property and the DTSC actions are available on the DTSC website at
www.dtsc.ca.gov at the "EnviroStar" link which is searchable by site name and city location.
The competing bid must represent and warrant that the bidder is purchasing the Real Property as
a result of its own investigations and is not buying the Real Property pursuant to any
representation made by any broker, agent, accountant, attorney or employee acting at the
direction or on behalf of the Seller. The competing bid must acknowledge that the bidder has
inspected the Real Property, and upon Bankruptcy Court approval of the competing bid
Agreement, the competing bidder forever waives, for itself, and its successors and assigns, any
and all claims against the Debtor, the Estate, John M. Wolfe, as the Trustee of the Estate and in
his individual capacity, and his attorneys, agents, and employees, arising or which might
otherwise arise in the future concerning the Real Property.

26 g. If overbids are received, the final bidding round for the Real Property shall be
27 held at the hearing on the Sale Motion in order to allow all potential bidders the opportunity to
28 overbid and purchase the Real Property. At the final bidding round to be conducted before the
Court, the Trustee will seek entry of an order, inter alia, authorizing and approving the sale of the
Real Property to the bidder who the Trustee, in the exercise of his business judgment, may
determine to have made the highest and best offer to purchase the Real Property, consistent with

1 the Bidding Procedures (“Successful Bidder”). The hearing on the Sale Motion may be
2 adjourned or rescheduled without notice other than by an announcement of the adjourned date at
the hearing on the Sale Motion.

3 h. At the hearing on the Sale Motion, the Trustee will seek entry of an order, *inter*
4 *alia*, authorizing and approving the sale of the Property to the Successful Bidder.

5 i. In the event the Successful Bidder fails to close on the sale of the Property within
6 the time parameters approved by the Court, the Trustee shall retain the Successful Bidder’s
7 Overbid Deposit and will be released from his obligation to sell the Property to the Successful
Bidder and the Trustee may then sell the Property to the first back-up bidder approved by the
Court at the hearing on the Sale Motion (“First Back-Up Bidder”).

8 j. In the event First Back-Up Bidder fails to close on the sale of the Property within
9 the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder’s
10 Overbid Deposit and will be released from his obligation to sell the Property to the First Back-
Up Bidder and the Trustee may then sell the Property to the second back-up bidder approved by
the Court at the hearing on the Sale Motion (“Second Back-Up Bidder”).

11 **H. The Basis for the Value of the Property**

12 The Estate does not have the funds to obtain a formal written appraisal for the estimated
13 value of the Property. Moreover, due to the Property being contaminated with substantial
14 hazardous substances as identified by the DTSC, the Trustee believes that the value of the
15 Property has been substantially impaired. Although the Property may be worth substantially
16 more than the proposed sale price herein once all remediation of the former dump site has been
17 completed, the risks and costs to fully clean up the Property are unknown at this time and have
18 negatively impacted the marketability of the Property.

19 **I. Marketing of the Property**

20 The Trustee has not employed a broker to market the Property for sale. Due to the
21 Property being contaminated with hazardous substances, the Trustee does not believe that there
22 is a large group of potential buyers for this Property. The Trustee intends to provide a copy of
23 this Sale Motion which sets for the Bidding Procedures to all parties who have contacted the
24 Trustee regarding the possible purchase of the Property.

25 In addition to HPP Acquisitions, LLC, the Trustee has received a letter of intent from
26 Certus Advisory Partners LLC to purchase the Property for \$2,000,000. The Trustee has also
27 received an inquiry from Penn Real Estate Group, Ltd., but has not received a purchase offer
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1 from this party. The Trustee has also been contacted by VA Property Group, LLC who has
2 stated that it is still interested in purchasing the Property.

3 **J. Discussion Regarding Overbids**

4 As stated above, the Trustee has been contacted by potential bidders for the purchase of
5 the Property. As such, the Trustee is proposing the sale of the Property to be subject to the
6 Bidding Procedures which will be provided to interested parties. As set forth above, the Property
7 is contaminated with hazardous substances and the potential buyer market for this Property is
8 limited. The Trustee believes that the sale of the Property subject to the Bidding Procedures to
9 be noticed to prospective buyers that have contacted the Trustee will provide for an appropriate
10 marketing of the Property under the circumstances of this case.

11 **K. Estimated Costs of Sale**

12 Through the sale to HPP Acquisitions, LLC, the Estate will be responsible for the cost of
13 a CLTA Title Policy, updated property survey, payment of outstanding property taxes and all
14 transfer and documentary fees and taxes. Escrow fees will be split equally by between the Estate
15 and HPP Acquisitions, LLC. Through the sale, the Estate will not be required to pay any
16 brokerage fee as HPP Acquisitions, LLC will be responsible for payment of a brokerage
17 commission to its own broker, Lee & Associates | Industry, Inc. The Trustee has not employed a
18 broker for the Property and will not incur costs associated with broker commissions. As such,
19 the costs of the sale will be substantially reduced from the failed transaction that had been
20 proposed by the Debtor which had called for a five percent commission to be paid to the
21 Debtor's Managing Member, Point Center Financial, Inc.

22 **L. Tax Consequences**

23 The Trustee is advised that the Debtor, a limited liability company which was formed by
24 the investors on a loan to Watt/Walder Limited Partnership, acquired the property following a
25 foreclosure sale under the defaulted loan. It is anticipated that the sale of the Property by the
26 Estate will be for less than the Debtor's costs for the purchase of the Property. At this time, the
27 Trustee does not know what the capital gains taxes liability will be, if any, generated by the sale,
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1 and it has not yet been determined if the capital gains, if any, will be passed through to the
2 members of the Debtor. In the event that there is any tax liability generated from the sale of the
3 Property that is a liability of the Estate, it is anticipated that such taxes will be paid from the
4 proceeds of the sale.

5 **M. The Sale Will Be Free and Clear of Liens**

6 The Property will be sold free and clear of all liens and encumbrances impacting the
7 Property. The Property shall be delivered to the Buyer free and clear of all liens and
8 encumbrances except for those approved by the Buyer. Out of an abundance of caution, any
9 liens and interests against the Property that are not paid resolved through escrow shall attach to
10 the sale proceeds with the same force, effect, validity, and priority as such liens or interests had
11 with respect to the Property prior to the sale.

12 **N. Estimated Sale Proceeds**

13 Through the sale, the Trustee expects to generate net proceeds of approximately
14 \$663,550.75 as follows (amounts are estimated):

Sale Price	\$2,050,000
Less costs of sale (6%) (no real estate commission)	(\$123,000)
Less estimated real property taxes	(\$1,263,449.25 ⁸)
Estimated Net Sale Proceeds	\$663,550.75

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28 ⁸ Based on the total of Claims 1 and 3 filed by the Los Angeles County Treasurer and Tax Collector.

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: **8105 Irvine Center Drive, Suite 600, Irvine, California 92618**

A true and correct copy of the foregoing document entitled (*specify*): **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*) **March 5, 2013**, 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:

- **Robert P Goe** kmurphy@goeforlaw.com, rgoe@goeforlaw.com;mforsythe@goeforlaw.com Attorney for Interested Party VA Property Group, LLC
- **Nancy S Goldenberg** nancy.goldenberg@usdoj.gov Attorney for the U.S. Trustee
- **James Potter** james.potter@doj.ca.gov Attorney for Creditor California Department of Toxic Substances Control
- **Leonard M Shulman** lshulman@shbllp.com Attorney for the Chapter 7 Trustee
- **United States Trustee (SA)** ustpreion16.sa.ecf@usdoj.gov U.S. Trustee
- **John M Wolfe (TR)** john.wolfe1@earthlink.net, CA83@ecfbis.com Chapter 7 Trustee

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **March 5, 2013**, 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*) **March 5, 2013**, 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.

Judge's Copy - Via Messenger

Honorable Theodor C. Albert
Ronald Reagan Federal Building and United States Courthouse
411 West Fourth Street , Bin Beside 5th Floor Elevators
Santa Ana, CA 92701

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.

March 5, 2013

Lorre Clapp

/s/ Lorre Clapp

Date

Printed Name

Signature

EMAIL SERVICE LIST

Jason Schirn, Principal
HPP Acquisitions, LLC
c/o Hager Pacific Properties
4100 Newport Place, Suite 820
Newport Beach, CA 92660
Via email: jason.schirn@hagerpacific.com

Aaron L. Bowers, Esq.
Certus Advisory Partners LLC
6750 W. 93rd Street, Suite 100
Overland Park, KS 66212-1465
Via email: abowers@certusap.com

David A. White
Director Capital Markets & Finance
WCD Group, LLC
1809 Central St #2E
Evanston IL 60201
Via email: dwhite@wcdgroup.com

Gregg F. Meister
Penn Real Estate Group, Ltd.
620 Righters Ferry Road
Bala Cynwyd, PA 19004
Via email: greg@pennrealestategroup.com

U.S. MAIL SERVICE LIST

DEBTOR

CARSON VALLEY, LLC
7 ARGONAUT
ALISO VIEJO, CA 92656

COURT NOTICING MATRIX

CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL
1001 I STREET
SACRAMENTO, CA 95814-2828
US

COURT NOTICING MATRIX

VA PROPERTY GROUP, LLC OR
ASSIGNEE
C/O GOE & FORSYTHE, LLP
18101 VON KARMAN AVENUE
SUITE 510
IRVINE, CA 92612

COURT NOTICING MATRIX

CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL
C/O JAMES POTTER, DEPARTMENT OF
JUSTICE
300 S. SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

COURT NOTICING MATRIX

POINT CENTER FINANCIAL INC
ATTN PRESIDENT OR MANAGING AGENT
7 ARGONAUT
ALISO VIEJO CA 92656

NOTICE PURPOSES

CALIFORNIA FRANCHISE TAX BOARD
BANKRUPTCY SECTION, MS: A-340
PO BOX 2952
SACRAMENTO, CA 95812-2952

NOTICE PURPOSES

CITY OF CARSON REDEVELOPMENT
AGENCY
701 E CARSON STREET
CARSON, CA 90745

ATTORNEYS FOR THE DEBTOR

JEFFREY S BENICE
LAW OFFICES OF JEFFREY S BENICE
650 TOWN CENTER DRIVE STE 1300
COSTA MESA, CA 92626

COURT NOTICING MATRIX

GOE & FORSYTHE, LLP
GOE & FORSYTHE LLP
ROBERT P. GOE, ESQ.
18101 VON KARMAN AVE
SUITE 510
IRVINE, CA 92612

COURT NOTICING MATRIX

COUNTY OF LOS ANGELES
TREASURER AND TAX COLLECTOR
225 N HILL STREET
LOS ANGELES CA 90012

COURT NOTICING MATRIX

LOS ANGELES COUNTY TREASURER AND
TAX COLLECTOR
PO BOX 54110
LOS ANGELES CA 90054-0110

COURT NOTICING MATRIX

SMITH TRAGER LLP
2192 MARTIN SUITE 270
IRVINE CA 92612

NOTICE PURPOSES

WATT MANAGEMENT COMPANY
ATTN PAMELA HILL
2716 OCEAN PARK BLVD SUITE 3040
SANTA MONICA, CA 90405
SANTA MONICA, CA 90405

NOTICE PURPOSES

CITY OF CARSON REDEVELOPMENT
AGENCY
ATTN AGENCY MANAGER OR PRESIDENT
ATTN AGENCY SECRETARY
1 CIVIC PLAZA, SUITE 500
CARSON, CA 90745

INTERESTED PARTY

UNITED STATES TRUSTEE (SA)
411 W FOURTH ST., SUITE 9041
SANTA ANA, CA 92701-4593

COURT NOTICING MATRIX

THE LAW OFFICES OF JEFFREY S. BENICE
3080 BRISTOL ST 6TH FL STE 630
COSTA MESA, CA 92626

ADDITIONAL NOTICE

COUNTY OF LOS ANGELES
TREASURER AND TAX COLLECTOR
SECURED PROPERTY TAX DIVISION
TAX DEFAULTED LAND UNIT
225 NO. HILL STREET, RM 130
LOS ANGELES, CA 90012

COURT NOTICING MATRIX

OFFICE OF THE U.S. TRUSTEE
411 WEST FOURTH STREET, SUITE 9041
SANTA ANA, CA 92701-3000

NOTICE PURPOSES

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA, PA 19101-7346

NOTICE PURPOSES

LA CELLULAR TELEPHONE COMPANY
305 W TORRANCE BLVD, #C-1
CARSON, CA 90745

COURT NOTICING MATRIX

RETURNED MAIL