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Attorneys for John M. Wolfe, Chapter 7 Trustee

FOR COURT USE ONLY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In re:

CHARLES D. MCHUGH,

Debtor(s).

CASE NO.: **8:12-bk-14904-ES**

Chapter 7

AMENDED NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: **May 29, 2013**	Time: **12:00 p.m.**
Location: **3920 Valley Boulevard, Unit H, Walnut, California 91789**	

Type of Sale: ■ Public ❑ Private Last date to file objections: **April 15, 2013**

Description of Property to be Sold: **Vehicle - 1971 Plymouth Barracuda 440-6**

Terms and Conditions of Sale: **See the attached Supplement to Motion and Motion for an Order: (1) Approving the Auction Sale of the Estate's Right, Title, and Interest in Personal Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f); (2) Approving the Employment of Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as Auctioneer; (3) Approving the Payment of Auctioneer's Commission; and (4) Granting Related Relief ("Motion")**

Proposed Sale Price: **Unknown**

Overbid Procedure (If Any):

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

Auction Sale on May 29, 2013 at 12:00 p.m. at 3920 Valley Boulevard, Unit H, Walnut, California 91789

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Rika M. Kido, Esq.
Shulman Hodges & Bastian LLP
8105 Irvine Center Drive, Suite 600, Irvine, CA 92618
Telephone: (949) 340-3400; Facsimile: (949) 340-3000

Dated: **April 25, 2013**

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Attorneys for John M. Wolfe,
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re **CHARLES D. MCHUGH,** Debtor.	Case No. 8:12-bk-14904-ES Chapter 7 **SUPPLEMENT TO THE CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING THE TRUSTEE TO:** **(1) CONDUCT AN AUCTION SALE OF THE ESTATE'S RIGHT, TITLE, AND INTEREST IN PERSONAL PROPERTY OF THE ESTATE FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. §§363(b)(1) AND (f));** **(2) APPROVING THE EMPLOYMENT OF SCOTT R. VAN HORN AND VAN HORN AUCTIONS & APPRAISAL GROUP, LLC AS AUCTIONEER;** **(3) APPROVING PAYMENT OF THE AUCTIONEER'S COMMISSION; AND** **(4) GRANTING RELATED RELIEF** **Hearing**: Date: May 9, 2013 Time: 10:30 a.m. Ctrm: 5A Place: Ronald Reagan Federal Building and United States Courthouse 411 West Fourth Street Santa Ana, California 92701

TO THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY JUDGE; OFFICE OF THE UNITED STATES TRUSTEE AND ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE John M. Wolfe, the Chapter 7 trustee ("Trustee") for the bankruptcy estate of Charles D. McHugh ("Debtor"), hereby supplements his Motion For an Order: (1) Approving the Auction Sale of the Estate's Right, Title, and Interest in Personal Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f); (2) Approving the Employment of Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as Auctioneer; (3) Approving the Payment of Auctioneer's Commission; and (4) Granting Related Relief ("Motion") (Docket No. 105).

Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Motion. This supplement to the Motion relates to the proposed auction date and proposed auction time for the public auction of the Vehicle.

Since the Debtor filed his Objection to the Motion and the hearing is scheduled for May 9, 2013, after the proposed auction date and time provided in the Motion, the Trustee has rescheduled the proposed auction date, time and location as follows:

The Trustee proposes to sell on an all cash basis and an as-is basis, all of the Estate's right, title and interest in the Vehicle by auction to the highest bidder and without any minimum price on **May 29, 2013 commencing at 12:00 p.m., with inspection from 8:00 a.m. to the sale time.** The auction sale will be conducted at **3920 Valley Boulevard, Unit H, Walnut, California 91789**.

Respectfully submitted,

SHULMAN HODGES & BASTIAN LLP

Dated: April 25, 2013

/s/ Rika M. Kido
Leonard M. Shulman
Rika M. Kido
Attorneys for John M. Wolfe, Chapter 7 Trustee
for the bankruptcy state of Charles D. McHugh

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Attorneys for John M. Wolfe, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re **CHARLES D. MCHUGH,** Debtor.	Case No. 8:12-bk-14904-ES Chapter 7 **CHAPTER 7 TRUSTEE'S MOTION FOR AN ORDER AUTHORIZING THE TRUSTEE TO:** **(1) CONDUCT AN AUCTION SALE OF THE ESTATE'S RIGHT, TITLE, AND INTEREST IN PERSONAL PROPERTY OF THE ESTATE FREE AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. §§363(b)(1) AND (f));** **(2) EMPLOY AUCTIONEER AND PAY COMPENSATION TO THE AUCTIONEER;** **(3) GRANTING RELATED RELIEF** **MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF JOHN M. WOLFE AND SCOTT R. VAN HORN IN SUPPORT THEREOF** [No Hearing Set Pursuant to Local Bankruptcy Rule 2014-1(b)]

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TO THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY JUDGE; OFFICE OF THE UNITED STATES TRUSTEE; DEBTOR; DEBTOR'S ATTORNEY AND ALL INTERESTED PARTIES:

John M. Wolfe, the Chapter 7 Trustee for the bankruptcy estate ("Estate") of Charles D. McHugh ("Debtor"), brings this Motion For an Order: (1) Approving the Auction Sale of the Estate's Right, Title, and Interest in Personal Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f); (2) Approving the Employment of Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as Auctioneer; (3) Approving the Payment of Auctioneer's Commission; and (4) Granting Related Relief ("Motion").

In support of the Motion, the Trustee respectfully represents as follows:

I. SUMMARY OF ARGUMENT

The Trustee is in possession of a 1971 Plymouth Barracuda 440-6 ("Vehicle"). Through this Motion, the Trustee is seeking an Order authorizing the auction sale of the Estate's right, title, and interest in the Vehicle. The Trustee, with the assistance of Scott Van Horn of Van Horn Auctions & Appraisal Group, LLC ("Auctioneer"), has completed an analysis of value and has determined that the Vehicle has a liquidation value of approximately $12,000.00 to $15,000.00, at an auction sale. The sale is authorized by Bankruptcy Code section 363(f) and will provide for a cost-efficient and expeditious manner in which to administer the Vehicle. The Estate is expected to net between $9,000.00 to $12,000.00 if the Vehicle is sold at an auction. Accordingly and based on the Trustee's business judgment, the Trustee respectfully requests that the Court approve the Motion.

II. RELEVANT FACTS

A. Case Commencement

The Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on April 18, 2012 ("Petition Date").

John M. Wolfe is the duly appointed, qualified and acting Chapter 7 trustee for the Debtor's Estate.

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B. The Vehicle

The Debtor's Bankruptcy Schedule B, as amended on September 6, 2012, indicate that the Debtor is the registered owner of the Vehicle. The Debtor values the Vehicle at $9,500.00 and does not claim an exemption in the Vehicle. On his Schedule D, he indicates there is a lien against the Vehicle in the amount of $9,500.00. A true and correct copy of the Debtor's Schedules B and D are attached to the Wolfe Declaration as **Exhibit 1.**

The Auctioneer has inspected the Vehicle and believes it to be worth approximately $12,000.00 to $15,000.00. The Auctioneer is currently in possession of the Vehicle.

C. Lien/Encumbrance Against the Vehicle and Its Proposed Treatment Through the Sale

Pursuant to the Debtor's Schedule D, creditor Sparrow Mahoney provided the Debtor with a loan on April 2, 2012 against title to the Vehicle in the amount of $9,500.00 ("Mahoney Lien"). The validity and amount of this encumbrance/lien is disputed and the subject of a bona fide dispute. The Trustee is informed and believes that the Debtor and Ms. Mahoney entered into a Secured Promissory Note on March 30, 2012 in the amount of $9,500.00 ("Note"). The Note was secured by the Vehicle and the Certificate of Title for the Vehicle lists Ms. Mahoney as a lienholder. The Certificate of Title and Ms. Mahoney's status as a secured creditor is disputed by the Trustee because the Certificate of Title was issued on April 14, 2012, four days before the Petition Date. Therefore, the Debtor allegedly transferred a security interest in the Vehicle within ninety (90) days prior to the Petition Date, which may constitute a preferential or other improper transfer that the Trustee may avoid and recover pursuant to Bankruptcy Code Sections 547 and 550 and/or other applicable bankruptcy law and/or California state law.

As the Mahoney Lien is subject to a bona fide dispute, pursuant to Bankruptcy Code Sections 363(b)(1) and (f)(4), the Trustee seeks to sell the Vehicle free and clear of this lien/encumbrance with this disputed lien/encumbrance to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending agreement with the creditor or further Court order.

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D. The Proposed Auction Date, Proposed Auctioneer and Proposed Auction Proposal

The Trustee proposes to sell on an all cash basis and an as-is basis, all of the Estate's right, title and interest in the Vehicle by auction to the highest bidder and without any minimum price on **April 30, 2013 commencing at 12:00 p.m.** The auction sale will be conducted at **3910 Valley Boulevard, Unit I, Walnut, California 91789**.

The proposed public auction shall be without any warranties, representations or contingencies. The sale will be free and clear of liens, claims and interests of third parties, with such liens, claims and interests to attach to the sale proceeds.

The Trustee proposes to employ Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as the Trustee's auctioneer ("Auctioneer") to coordinate the auction sale and authorizing payment of the Auctioneer's Compensation pursuant to the terms of the Auctioneer's proposal ("Auction Proposal"), a true and correct copy of which is attached to the Wolfe Declaration as **Exhibit 2.** The principle terms of the Auction Proposal are as follows (the term "Seller" means the Trustee on behalf of the Estate):

Format	Public Auction
Date	April 30, 2013 at 12:00 p.m.
Site	3910 Valley Blvd., Unit I, Walnut, California 91789
Asset	1971 Plymouth Barracuda 440-6, License Number 44CUDA
Marketing	Newspaper, On Line Publications, and Email Blast
Seller's Cost	Auctioneer's Expense Reimbursement only. **No Seller's Commission paid.**
Auctioneer's Compensation	13% buyer's premium charged to each purchaser. Expense allowance not to exceed $3,200.00 for: (1) two (2) Los Angeles Times display advertisements (2 columns by 1 inch at $350.00 per column inch); (2) one thousand (1000) auction brochures, graphics, mail list and handling, auction bond, (3) days labor (asset preparation and set-up, lotting & tagging, computer entry, auction sale day, check-out and removal personnel, post auction recapitulation of sale)("Expense Allowance"). Reimbursement for storage of the Vehicle in the amount of $12.50 per day up to the date of the Auction Sale ("Storage Charge"). Storage of the Vehicle commenced on December 19, 2012.

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Sale Terms	• The sale will be without limit and without reserve, subject only to minimum opening bid amounts established by the Auctioneer, based on Auctioneer's expert judgment. • Auctioneer will offer the property to buyers in "As-Is, Where-Is" Condition, without representations or warranties. • Auctioneer will require bidders to post an appropriate deposit as a prerequisite to bid • Auctioneer will require buyers to sign a terms sheet, which will include terms intended to protect Auctioneer and Seller from buyer payment defaults, property abandonment, damage to persons or property onsite, claims regarding the property condition, etc. • Auctioneer will accept from buyers the following forms of payment: credit card (fees shall be Auctioneer's responsibility), cashiers' checks, guaranteed checks and wire transfer as payment for the property sold. No cash will be accepted for this sale. • Regardless of any scheduled time and place for offer to purchase the Vehicle, the Trustee may, at his option, reject any and all bids if he deems that such bids are inadequate as to form and amount. The sale date may be continued from time to time until the Vehicle is sold, without further Order of this Court, or until such time it is determined that abandonment is appropriate. • Auctioneer will be paid a 13% buyers' premium from auction purchasers. • Auctioneer shall require the buyer to pay any DMV fees and remit applicable sales tax directly to the DMV. • Auctioneer shall provide Trustee an Auctioneers' Report within 21 days of the auction, including a list of items sold, price of each item sold, buyer of each item, and gross sale proceeds. The Auctioneer shall also provide a settlement summary report, statement itemizing sale expense, copies of all marketing materials and expense receipts.

Regardless of any scheduled time and place for offer to purchase the Vehicle, the Trustee may, at his option, reject any and all bids if he deems that such bids are inadequate as to form and amount. The sale date may be continued from time to time until the Vehicle is sold, without further Order of this Court, or until such time it is determined that abandonment is appropriate.

Attached as **Exhibit 3** to the Declaration of Scott R. Van Horn ("Van Horn Declaration") is a true and correct copy of the resume for the Auctioneer. Attached as **Exhibit 4** are copies of the Auctioneer's Bankruptcy Bond in the amount of $15,000.00 and proof of liability insurance in the amount of $1,000,000.00. I have been advised by my counsel that the Auctioneer's Bankruptcy Bond has been filed with the United States Bankruptcy Court – Los Angeles Division and a copy provided to the Office of the United States Trustee. The Auctioneer has also advised the Trustee that the total value of all pending bankruptcy auctions in which the

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Auctioneer is involved in this district does not exceed the Auctioneer's Bankruptcy Bond and liability insurance coverage.

The Trustee believes that the auction is fair and reasonable and that the Trustee should be authorized to employ the Auctioneer on the terms and conditions set forth herein. The Trustee is satisfied from the Van Horn Declaration that the Auctioneer is a disinterested person within the meaning of Bankruptcy Code Section 101(14).

E. Request for Authorization to Use the Auction Proceeds to Pay the Auctioneer's Expenses and to Reimburse the Trustee for his Actual Costs

Through this Auction Motion, the Trustee requests the Court authorize the use of the proceeds of the auction sale to make Court approved disbursements to the proposed Auctioneer pursuant as set forth herein.

Pursuant to the Office of the United States Trustee's Supervisory Instructions ("Instructions"), Auctioneer's compensation and expenses shall be payable upon completion of the following:

a. Within twenty-one (21) days after the auction sale, Auctioneer shall: 1) turnover any and all proceeds from the auction to the Trustee; and 2) submit to the Trustee a Report of Auctioneer ("Auction Report") which is consistent with the requirements of the Instructions; and

b. Provided an Order has been entered approving payment of the Auctioneer's compensation and expenses, the Trustee shall compensate the Auctioneer for the Court approved fees and expenses within ten (10) calendar days of the Trustee's receipt of the Auction Report.

Within thirty (30) days of receipt of the Auction Report, the Trustee shall file the Auction Report with the Court together with a brief declaration ("Trustee's Declaration") which is consistent with the requirements of the Instructions.

Based upon an analysis of the market value of the Vehicle and costs associated with sale of same, the Trustee is of the opinion and belief that the public auction as referenced above is in the best interest of this bankruptcy estate, as it will generate the most funds to the Estate for the benefit of the creditor body.

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The Trustee believes that the proposal for employment of the Auctioneer is fair and reasonable and the Trustee should be authorized to pay the Auctioneer pursuant to the terms and conditions set forth above.

III. MEMORANDUM OF POINTS AND AUTHORITIES

A. The Vehicle is Property of the Debtor's Bankruptcy Estate

Bankruptcy Code Section 541 provides in part as follows:

> (a) The commencement of a case under section 301, 302 or 303 of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held:
>
> > (1) Except as provided in subsection s (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case.

See 11 U.S.C. § 541(a)(1) (2011). Bankruptcy Code section 541 is broadly construed to include all property interests, whether reachable by state-law creditors or not, and whether vested or contingent. *United States v Rauer*, 963 F.2d 1332 (10th Cir. 1992); *In re Yonikus*, 996 F.2d 866 (7th Cir. 1993) (virtually all property of debtor becomes property of estate; in fact, every conceivable interest of debtor, including future, non-possessory, contingent, speculative, and derivative, is within the scope of Section 541).

In this case, the Debtor is the registered owner of the Vehicle and the Debtor lists the Vehicle in his Bankruptcy Schedules. As such, the Vehicle belongs to the bankruptcy Estate as set forth in Bankruptcy Code section 541(a)(1).

B. The Court May Authorize the Sale When There is a Good Faith Purchaser

The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b). The standards to establish are that there is a sound business purpose for the sale, that the sale is in the best interests of the estate, i.e., the sale is for a fair and reasonable price, that there is accurate and reasonable notice to creditors and that the sale is made in good faith. *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale to one of very few serious bidders where an asset has been shopped and a delay could jeopardize the transaction. *See, e.g., In re Crowthers McCall Pattner, Inc.*, 114 B.R. 877, 885 (Bankr. S.D.N.Y.

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1990) (extreme difficulty finding a buyer justified merger when buyer found). The Trustee's proposed sale of Vehicle meets the foregoing criteria.

1. Sound Business Purpose

The Ninth Circuit has adopted a flexible, case-by-case test to determine whether the business purpose for a proposed sale justifies disposition of property of the estate under Section 363(b). *In re Walter*, 83 B.R. 14 (B.A.P. 9th Cir. 1988). In *Walter*, the Ninth Circuit, adopting the reasoning of the Fifth Circuit in *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir. 1986), and the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983), set forth the following standard to be applied under Bankruptcy Code Section 363(b):

> Whether the proffered business justification is sufficient depends on the case. As the Second Circuit held in Lionel, the bankruptcy judge should consider all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders, alike. He might, for example, look to such relevant factors as the proportionate value of the assets to the estate as a whole, the amount of lapsed time since the filing, the likelihood that a plan of reorganization will be proposed and confirmed in the near future, the effect of the proposed disposition on future plans of reorganization, the proceeds to be obtained from the disposition vis-a-vis any appraisals of the property, which of the alternatives of use, sale or lease the proposal envisions and, most importantly perhaps, whether the asset is increasingly or decreasing in value. This list is not intended to be exclusive, but merely to provide guidance to the bankruptcy judge.

Walter, 83 B.R. at 19-20 (quoting *Continental*, 780 F.2d at 1226).

In this case, it is in the best interest of all concerned to sell the Estate's right, title and interest in the Vehicle to the highest and best bidder under the terms set forth in the Trustee's Motion. The sale will provide for a cost-efficient and expeditious manner in which to administer the Vehicle and is expected to net the Estate between $9,000.00 and $12,000.00 after payment of fees and costs to the Auctioneer.

Therefore, the Trustee respectfully submits that, if this Court applies the good business reason standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

2. The Sale Serves the Best Interests of the Estate and Creditors

The Trustee believes that it would be in the best interest of the Estate and its creditors to sell the Vehicle. The benefits to the Estate, as set forth above, are significant due to the funds to be generated from the sale for payment of unsecured claims. If the Motion is not approved, the Estate will have difficulty selling the Vehicle to a third party. The sale will provide for a cost-

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efficient and expeditious manner in which to administer the Vehicle. Thus, the Trustee has made a business decision that it is in the best interest of the creditors of the Estate that this Sale Motion be approved.

3. Accurate and Reasonable Notice

It is expected that notice of this Motion will satisfy the requirements for accurate and reasonable notice.

The notice requirements for sales are set forth in Federal Rules of Bankruptcy Procedure ("FRBP") 6004 and 2002. The notice must include the time and place of any public sale, the terms and conditions of any private sale, the time fixed for filing on objections and a general description of the property. Fed. R. Bankr. P. 2002(c)(1).

In compliance with FRBP 2002 and Bankruptcy Code Section 102(1), the Trustee shall provide notice of the proposed sale of the Vehicle to creditors and parties in interest. The Notice of Sale Motion will include a summary of the terms and conditions of the proposed sale, the time fixed for filing objections, and a general description of the Property. The Trustee submits that the notice requirements will have been satisfied, thereby allowing creditors and parties in interest an opportunity to object to the sale. Hence, no further notice should be necessary.

4. The Sale is Made in Good Faith

The proposed sale has been brought in good faith and has been negotiated on an "arms length" basis.

The court, in *Wilde Horse Enterprises*, set forth the factors in considering whether a transaction is in good faith. The court stated:

> 'Good faith' encompasses fair value, and further speaks to the integrity of the transaction. Typical 'bad faith' or misconduct, would include collusion between the seller and buyer, or any attempt to take unfair advantage of other potential purchasers. . . . And, with respect to making such determinations, the court and creditors must be provided with sufficient information to allow them to take a position on the proposed sale.

Id. at 842 (citations omitted).

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In the present case, the sale of the Vehicle will be conducted by the Auctioneer and therefore constitute an arms-length transaction. The sale will provide for a cost-efficient and expeditious manner in which to administer the Vehicle that will benefit the Estate. As set forth in the Notice of the Motion, the creditors will have been provided with sufficient notice of the sale. 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 Motion.

C. The Sale Free and Clear of Liens and Encumbrances Should be Permitted

Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate "free and clear of any interest in such property of an entity," if any one of the following five conditions is met:

> (1) applicable non-bankruptcy law permits a sale of such property free and clear of such interest;
>
> (2) such entity consents;
>
> (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
>
> (4) such interest is in bona fide dispute; or
>
> (5) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

11 U.S.C. § 363(f).

Section 363(f) is written in the disjunctive and thus only one of the enumerated conditions needs to be satisfied for Court approval to be appropriate.

1. Section 363(f)(3)

The sale of the Vehicle is proper pursuant to Section 363(f)(3). The sales price is for a sum that is greater than the aggregate value of the non-disputed liens. Courts have approved sales under Bankruptcy Code Section 363(f) even where the sale price did not exceed the value of the liens asserted on the property so long as the sale is for fair market value. *In re Terrace Gardens Park Partnership*, 96 B.R. 707 (Bankr. W.D. Tex. 1989); *In re Beker Indus. Corp.*, 63 B.R. 474, 477 (Bankr. S.D.N.Y. 1986). Thus, approval for the sale free and clear of liens and encumbrances in the manner provided herein is appropriate.

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2. Section 363(f)(4) – Bona Fide Dispute

As set forth in the above, the Trustee disputes that Ms. Mahoney has a security interest in the Vehicle and also disputes the validity of any lien encumbering the Vehicle in favor of Ms. Mahoney that is showing on the Certificate of Title for the Vehicle. In addition, the Note providing the security interest in the Vehicle was entered into and the Certificate of Title was issued within ninety days prior to the Petition Date and may constitute a preferential or other improper transfer that the Trustee may avoid and recover pursuant to Bankruptcy Code Sections 547 and 550 and/or other applicable bankruptcy law and California state law. As the interests and encumbrances of Ms. Mahoney are subject to a bona fide dispute, the Trustee seeks to sell the Vehicle free and clear of the disputed interests of Ms. Mahoney with such disputed interests and encumbrances to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending agreement with or further Court order.

The policy behind allowing assets to be sold free and clear of disputed interests provides that the disputes do not bog down the swift and orderly liquidation of bankruptcy estate assets for the highest possible value. It is absolutely essential for the Trustee to be able to quickly liquidate the Vehicle for its maximum possible value. By demonstrating the existence of the bona fide disputes, Section 363(f) allows the Vehicle to be sold free and clear of any lien that is subject to a dispute so that at a minimum, proceeds can be generated for distribution to parties. If every sale were subject to resolution of disputes that were in existence, expense and time associated with litigation would significantly impact values that could be obtained by trustees and/or other estate fiduciaries for the benefit of creditors. Resolution of the issues with regard to the claims of the holders of disputed liens and encumbrances may likely take substantial time, effort and expense by the parties. That process should not hinder, delay or in any way inhibit the Trustee's efforts to maximize the value of the sale of Vehicle.

In summary, the Trustee seeks Court approval of the sale free and clear of any and all disputed liens and encumbrances, with all disputed liens and encumbrances to be unconditionally released, discharged and terminated, and with any liens and encumbrances not satisfied through the sale to attach only to the proceeds of the transaction with the same priority, validity, force

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and effect as they existed with respect to the Vehicle before the closing of the sale pending further Court order or agreement with the parties. The Trustee does not believe it is prudent or necessary to resolve the disputes with holders of any disputed liens and encumbrances by Court order or judgment prior to the sale. The unresolved disputed liens and encumbrances, if any, would be subject to a bona fide dispute and the Bankruptcy Code provides for a means to sell free and clear of such interests. If the Estate is forced to wait for resolution of the disputes, the costs of such delay will dilute the amount of funds available for the Estate. Thus, the Trustee needs immediate Court approval of the sale of the Vehicle.

Further, the Trustee desires to sell the Vehicle quickly in order stop administrative costs associated with the Vehicle and delays that could result from having to first resolve any disputes related to secured claims that may negatively impact the benefits of the sale. Thus, approval for the sale of the Vehicle free and clear of disputed liens and encumbrances pursuant to Bankruptcy Code Sections 363(f)(3) and (4) in the manner provided herein is appropriate.

D. The Court has Authority to Waive the Fourteen-Day Stay of Sale

Federal Rule of Bankruptcy Procedure 6004(h) provides that "[a]n order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the Court orders otherwise."

The Trustee desires to conduct and close on the proposed auction sale as soon as practicable after entry of an order approving the Auction Motion. Accordingly, the Trustee requests that the Court in the discretion provided it under Federal Rules of Bankruptcy Procedure 6004(h), order that the fourteen-day stay of the order granting this Auction Motion shall not apply.

IV. CONCLUSION

WHEREFORE, based upon the foregoing, the Trustee respectfully submits that good cause exists for granting the Motion and requests that the Court enters an order as follows:

1. Granting the Motion.

2. Authorizing the sale of the Vehicle to the highest bidder as the case may be, pursuant to the terms and conditions set forth herein.

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3. Authorizing the Trustee to sign any and all documents convenient and necessary in pursuit of the sale as set forth above.

4. Authorizing the employment of Scott R. Van Horn of Van Horn Auctions & Appraisal Group, LLC as the Trustee's auctioneer.

5. Approving the sale of the Vehicle free and clear of all liens, claims, interests, and encumbrances pursuant to 11 U.S.C. §363(f).

6. Authorizing payment of Auctioneer's Compensation, including Auctioneer's Expense Allowance and reimbursement for the Storage Charge, without further order of this Court upon completion of the requirements of the Instruction.

7. Directing that the fourteen day stay of the order approving the Motion as provided by Federal Rules of Bankruptcy Procedure 6004(h), or any other applicable rules, shall not apply and that absent judicial imposition of a stay of the Court order approving the Motion pending appeal, the Trustee may immediately consummate the actions that are approved by such Court order.

8. For such other and further relief as the Court deems just and proper under the circumstances of this case.

Respectfully submitted,

SHULMAN HODGES & BASTIAN LLP

Dated: March 29, 2013

/s/ Rika M. Kido
Leonard M. Shulman
Rika M. Kido
Attorneys for John M. Wolfe, Chapter 7 Trustee
for the bankruptcy estate of Charles D. McHugh

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8105 Irvine Centre Drive
Suite 600
Irvine, CA 92618

DECLARATION

DECLARATION OF JOHN M. WOLFE

I, John M. Wolfe, declare:

1. I am the duly appointed, qualified and acting Chapter 7 Trustee for the bankruptcy estate ("Estate") of Charles D. McHugh, ("Debtor") Case No. 8:12-bk-14904-ES. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would competently testify thereto, except where matters are stated on information and belief, in which case I am informed and believe that the facts so stated are true and correct.

2. I make this Declaration in support of my Motion for Order: (1) Approving the Auction Sale of the Estate's Right, Title, and Interest in Personal Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f); (2) Approving the Employment of Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as Auctioneer; (3) Approving the Payment of Auctioneer's Commission; and (4) Granting Related Relief ("Motion"). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Motion.

3. I have read and I am aware of the contents of the Motion and the accompanying Memorandum of Points and Authorities. The facts stated in the Motion and the Memorandum of Points and Authorities are true to the best of my knowledge.

4. The Court's docket indicates that the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on April 18, 2012 ("Petition Date").

5. I am proposing to sell on an all cash basis and an as-is basis, all of the Estate's right, title and interest in a 1971 Plymouth Barracuda 440-6 ("Vehicle"), by way of a public auction to be conducted by my proposed auctioneer, Scott Van Horn of Van Horn Auctions & Appraisal Group, LLC ("Auctioneer"). The request is based on my business judgment.

6. The Debtor's Bankruptcy Schedule B, as amended on September 6, 2012, indicate that he is the registered owner of the Vehicle. He values the Vehicle at $9,500.00 and does not claim an exemption in the Vehicle. On his Schedule D, he indicates that there is a lien against the Vehicle in the amount of $9,500.00. A true and correct copy of the Debtor's Schedules B and D are attached hereto as **Exhibit 1.**

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7. I, with the assistance of the Auctioneer, have completed an analysis of value and have determined that the Vehicle have a liquidation value of approximately $12,000.00 to $15,000.00.

8. The proposed public auction shall be without any warranties, representations or contingencies, free and clear of liens, claims and interests of third parties, with such liens, claims and interests to attach to the sale proceeds.

9. Pursuant to the Debtor's Schedule D, creditor Sparrow Mahoney provided the Debtor with a loan on April 2, 2012 against title to the Vehicle in the amount of $9,500.00 ("Mahoney Lien"). The validity and amount of this encumbrance/lien is disputed and the subject of a bona fide dispute. I am informed and believe that the Debtor and Ms. Mahoney entered into a Secured Promissory Note on March 30, 2012 in the amount of $9,500.00 ("Note"). The Note was secured by the Vehicle and Certificate of Title for the Vehicle lists Ms. Mahoney as a lienholder. The Certificate of Title and Ms. Mahoney's status as a secured creditor is disputed by the Trustee in that the Certificate of Title was issued on April 14, 2012, four (4) days before the Petition Date. Therefore, the Debtor allegedly transferred a security interest in the Vehicle within ninety (90) days prior to the Petition Date, which may constitute a preferential or other improper transfer that the Trustee may avoid and recover pursuant to Bankruptcy Code Sections 547 and 550 and/or other applicable bankruptcy law and/or California state law.

10. As the Mahoney Lien is subject to a bona fide dispute, pursuant to Bankruptcy Code Sections 363(b)(1) and (f)(4), I seek to sell the Vehicle free and clear of this lien/encumbrance with such disputed lien/encumbrance to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending agreement with the creditor or further Court order.

11. I am requesting authorization to employ the Auctioneer to coordinate the auction sale and authorizing payment of the Auctioneer's Compensation, including Auctioneer's Expense Allowance and reimbursement for the Storage Charge, pursuant to the terms of the Auctioneer's proposal ("Auction Proposal"), a true and correct copy of which is attached hereto as **Exhibit 2.**

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12. I believe that the Auction Proposal is fair and reasonable and that I should be authorized to employ the Auctioneer on the terms and conditions set forth in the Auction Proposal.

13. Regardless of any scheduled time and place for offer to purchase the Vehicle, I may, at my option, reject any and all bids if I deem that such bids are inadequate as to form and amount. The sale date may be continued from time to time until the Vehicle is sold, without further Order of this Court, or until such time it is determined that abandonment is appropriate.

14. Based upon an analysis of the market value of the Vehicle and costs associated with sale of same, I am of the opinion and belief that the public auction as referenced above is in the best interest of the Estate, as it will generate the most funds to the Estate for the benefit of creditors.

15. I am satisfied from the Van Horn Declaration that the Auctioneer is a disinterested person within the meaning of Bankruptcy Code Section 101(14).

16. I am advised that the Auctioneer has a Bankruptcy Bond in the amount of $15,000.00 which has been filed with the United States Bankruptcy Court – Los Angeles Division and a copy provided to the Office of the United States Trustee.

17. Thus, based on good business reasons, approval of this Motion would serve the best interests of the Debtor's Estate and its creditors.

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

Executed on March 28, 2013, at Irvine, California.

John M. Wolfe

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8105 Irvine Centre Drive
Suite 600
Irvine, CA 92618

DECLARATION

DECLARATION OF SCOTT R. VAN HORN

I, Scott R. Van Horn, declare:

1. I am the President of Van Horn Auctions & Appraisal Group, LLC ("Firm"), the proposed auctioneer for the bankruptcy estate ("Estate") of Charles D. McHugh, ("Debtor") Case No. 8:12-bk-14904-ES. I have personal knowledge of the matters set forth in this Declaration and if called upon to testify, I could and would testify competently thereto.

2. I make this Declaration in support of the Trustee's Motion for Order: (1) Approving the Auction Sale of the Estate's Right, Title, and Interest in Personal Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances Pursuant to 11 U.S.C. §363(b)(1) and (f); (2) Approving the Employment of Scott R. Van Horn and Van Horn Auctions & Appraisal Group, LLC as Auctioneer; (3) Approving the Payment of Auctioneer's Commission; and (4) Granting Related Relief ("Motion"). Unless otherwise noted, capitalized terms herein have the meaning as set forth in the Motion.

3. The Firm has extensive experience in the matters to which it is to be engaged and is well qualified to complete the sale of the kind proposed by the Trustee in the Motion. Attached hereto as **Exhibit 3** is a true and correct copy of the Firm's resume.

4. I assisted the Trustee in completing an appraisal of the Vehicle and have determined that the best means to liquidate same is a public auction. In my opinion, the liquidation value of the Vehicle is $12,000.00 to $15,000.00.

18. Included with **Exhibit 4** is a copy of the Firm's Bankruptcy Bond in the amount of $15,000.00 and proof of liability insurance in the amount of $1,000,000.00.

19. I have been advised that the Firm's Bankruptcy Bond has been filed with the United States Bankruptcy Court – Los Angeles Division and a copy provided to the Office of the United States Trustee.

5. I have advised the Trustee that the total value of all pending bankruptcy auctions in which the Firm is involved in this district does not exceed my aggregate bond.

6. I have read foregoing Motion and the Firm agrees to and approves all of the terms and conditions thereof.

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7. To the best of the Firm's knowledge, neither the Firm, nor any of the professionals comprising or employed by it, have any connection with the Debtors, their creditors or any other party in interest, their respective attorneys or other professionals, the United States Trustee, or any person employed by the Office of the United States Trustee.

8. To the best of the Firm's knowledge, none of the professionals comprising or employed by the Firm are related to any judge of the United States Bankruptcy Court for the Central District of California.

9. To the best of my knowledge the Firm is both disinterested as that term is defined in Bankruptcy Code Section 101(14) and represents no interest which would be adverse to the Debtor, the Estate or its creditors or any party in interest in this proceeding.

10. The Firm has no pre-petition claim against the Estate.

11. The Firm has received no retainer for the services to be performed herein.

12. The Firm and I are familiar with the requirements of the Office of the United States Trustee related to employment of auctioneers which includes requirements relative to the filing of a report by the auctioneer within twenty-one (21) days after the auction sale, and the procedures for compensation of auctioneers, and we agree to comply therewith.

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

Executed on March 27th, 2013, at Aliso Viejo, California.

Scott R. Van Horn

SHULMAN HODGES & BASTIAN LLP
8105 Irvine Centre Drive
Suite 600
Irvine, CA 92618

Exhibit 1

Schedules B and D

IN RE McHugh, Charles D Case No. _____
Debtor(s) (If known)

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether the husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand.		**Cash**	**J**	**20.00**
2. Checking, savings or other financial accounts, certificates of deposit or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		**Checking Accounts**	**J**	**675.00**
		Wells Fargo Bank Account Ending 4287 (blocked by court order of Orange County Superior Court, joint account with Connie McHugh --proceeds from sale of automobile)		**54,000.00**
3. Security deposits with public utilities, telephone companies, landlords, and others.	**X**			
4. Household goods and furnishings, include audio, video, and computer equipment.		**Bed**		**100.00**
		Bedroom set		**250.00**
		Couch		**250.00**
		Dishes, pots and pans.		**100.00**
		File cabinet		**50.00**
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	**X**			
6. Wearing apparel.		**Clothing, shirts, pants, shoes**		**100.00**
7. Furs and jewelry.	**X**			
8. Firearms and sports, photographic, and other hobby equipment.	**X**			
9. Interest in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	**X**			
10. Annuities. Itemize and name each issue.	**X**			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	**X**			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		**Charles Schwab 401k Retirement Account from former employer Amcor Packaging Distribution**	**J**	**552,000.00**

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Exhibit 1

B6B (Official Form 6B) (12/07) - Cont.

IN RE McHugh, Charles D Case No. _____
Debtor(s) (If known)

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements in which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interest, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		**Promissory note payment due from James Moran from 2009. Payment not due on promissory note until 2014.**	**J**	**17,500.00**
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		**1971 Plymouth Barracuda** **2006 Ford Explorer**		**9,500.00** **7,300.00**
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			

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Exhibit 1

B6B (Official Form 6B) (12/07) - Cont.

IN RE McHugh, Charles D Case No. _____
Debtor(s) (If known)

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	NONE	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT, OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			
			TOTAL	641,845.00

0 continuation sheets attached

(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

Exhibit 1

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B6D (Official Form 6D) (12/07)

IN RE McHugh, Charles D Case No. _____
Debtor(s) (If known)

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is the creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H – Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim Without Deducting Value of Collateral" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion, if Any" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE AND ACCOUNT NUMBER. *(See Instructions Above.)*	CODEBTOR	HUSBAND, WIFE, JOINT, OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. **Sparrow Mahoney** **232 Tyler Avenue** **St. Michaels, MD 21663**			**4/2/2012 Loan against title to 1971 Plymouth Barracuda** VALUE $ **9,500.00**				**9,500.00**	
ACCOUNT NO. **8808** **Wells Fargo Mortgage** **Post Office Box 30427** **Los Angeles, CA 90030-0427**	**X**	**J**	**September 2009. Mortgage secured by deed of trust** VALUE $ **691,000.00**				**292,402.62**	
ACCOUNT NO. 			VALUE $					
ACCOUNT NO. 			VALUE $					
0 continuation sheets attached			Subtotal (Total of this page)				$ **301,902.62**	$
			Total (Use only on last page)				$ **301,902.62**	$
							(Report also on Summary of Schedules.)	(If applicable, report also on Statistical Summary of Certain Liabilities and Related Data.)

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Exhibit 1

Exhibit 2

Auction Proposal

VanHorn Auctions
APPRAISAL & GROUP, LLC

26895 Aliso Creek Road • Suite B, # 569 • Aliso Viejo, California 92656-5301
Email: vanhornauctions@cox.net • Website: www.vanhornauctions.com
Tel: (949) 206-2525 • Fax: (949) 831-1975

January 7, 2013

John M. Wolfe, Trustee
5450 Trabuco Road
Irvine, CA 92620-5704

Dear Mr. Wolfe;

As you are aware, on Tuesday, December 18th, 2012, I had the opportunity to inspect the 1971 Plymouth Barracuda 440-6, license number 446CUDA (**related to the case of In re Charles D. McHugh, 8:12-bk-14904-ES**), that was delivered to your office at the above location, for the purpose of establishing a liquidation, opinion of value, and conducting a public auction sale if such action is forthcoming.

It is from this inspection that I am of the following opinion.

It is my opinion the 1971 Plymouth Barracuda 440-6, license number 446CUDA will bring approximately $12,000.00 to $15,000.00 at a piece meal auction sale conducted off site.

As always our sole commission will be derived from a 13% buyers premium charged to each purchaser, however, we will require and expense allowance not to exceed $3,200.00 for (2) Los Angeles Times display advertisements (2 columns by 1 inch at $350.00 per column inch) and (1000) auction brochures, graphics, mail list and handling, auction bond, (3) days labor (asset preparation and set-up, lotting & tagging, computer entry, auction sale day, check-out and removal personnel, post auction recapitulation of sale).

We will sell the vehicle at 3910 Valley Blvd, Unit I, Walnut, California as soon as we have court approval.

The expense allowance above does not take into consideration the storage charge of $12.50 per day. At this time, we do not know the number of days the vehicle will be stored until the Bankruptcy Court gives us the auction green light. We began the storage on Wednesday, December 19th, 2012.

We will make every effort to minimize these expenses.

Please be aware that all costs will be incurred by VAN HORN AUCTION GROUP, LLC., prior to the auction and will be re-paid from the proceeds of the sale. All invoices and receipts of actual expenses will be provided with a total recapitulation of the sale.

Please keep me apprised as to your decision. Thank you for the opportunity to be of service.

Sincerely,

Scott R. Van Horn

Exhibit 2

Exhibit 3

Resume

VanHorn Auctions
APPRAISAL & GROUP, LLC

26895 Aliso Creek Road • Suite B, # 569 • Aliso Viejo, California 92656-5301
Email: vanhornauctions@cox.net • Website: www.vanhornauctions.com
Tel: (949) 206-2525 • Fax: (949) 831-1975

INTRODUCTION OF AUCTIONEER

SCOTT R. VAN HORN, PRINCIPAL

VAN HORN AUCTIONS & APPRAISAL GROUP, LLC.

VAN HORN AUCTIONS & APPRAISAL GROUP, LLC, was formed as a result in a change in the industry. We recognized a need for a dependable auction and appraisal team to provide a young, dynamic approach for the liquidation and appraisal process.

For the past twenty five years Scott R. Van Horn and his staff have been leaders in the auction & appraisal industry. He believes in ethical practice and intends to continue, as they launch themselves into the 21st Century.

VAN HORN AUCTIONS & APPRAISAL GROUP, LLC, currently works for the United States Bankruptcy Court, various Financial and Lending Institutions, Administrators, Receivers, Assignees For Benefit Of Creditors, Consultants, Real Estate Brokers, Accountants and Business Owners.

We are presently bonded and licensed with the State Of California and bonded with the United States Bankruptcy Court for projects ranging from $50,000.00 to $450,000.00. We are members of the National Auctioneers Association, California State Auctioneers Association, and Southern California Auctioneers Association.

VAN HORN AUCTIONS & APPRAISAL GROUP, LLC, is an industrial auction company specializing in all aspects of appraisals and auction sales including, but not limited to: physical inspection and evaluation of assets, bidding and conducting public auction sales, preparation of assets to be sold, auction inspection supervision, collection of auction proceeds, relocation of assets, facility lock-down, printing and mailing of brochures, newspaper advertisements, legal notices, "Out-Right" purchases, conducting and preparing Liquidation and Fair Market Value appraisals.

Members Of The Following Organizations:
National Auctioneers Association
California State Auctioneers Association
Southern California Auctioneers Association

VanHorn & Auctions
APPRAISAL GROUP, LLC

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Tel: (949) 206-2525 • Fax: (949) 831-1975

Scott Van Horn, Principal

EDUCATION

BACHELOR OF SCIENCE (1983-1988)
California Polytechnic University, Pomona

- Degree In Management And Human Resources

EXPERIENCE

Auction Company, Los Angeles, California (1988-1998)

- Prepared, rearranged, relocated and tagged assets to be auctioned.
- Prepared auction advertisements to be circulated nationally.
- Prepared auction proposals, contracts, and post auction recapitulations of auction.
- Conducted Fair Market and Liquidation value appraisals.
- Auctioneer of Ostrin & Ostrin Auctioneers.

Van Horn Auctions & Appraisal Group, LLC (1997- Present)

- Owner, principal and member since 1997.
- Appraiser, Fair Market and Liquidation value appraisals.
- Auctioneer
- Prepared auction advertisements to be circulated nationally.
- Prepared auction proposals, contracts, and post auction recapitulations of auction.

SPECIALTIES

Scope Of Work

- Public Auction Sales
- Liquidation & Fair Market Value Appraisals
- Relocation Of Assets
- Physical Inspections
- Evaluation Of Assets
- Legal Notices
- Facility Lock Down
- Out Right Purchases

AFFILIATIONS

Southern California Auctioneers Association (1989- Present)

VanHorn Auctions
APPRAISAL & GROUP, LLC

26895 Aliso Creek Road • Suite B, # 569 • Aliso Viejo, California 92656-5301
Email: vanhornauctions@cox.net • Website: www.vanhornauctions.com
Tel: (949) 206-2525 • Fax: (949) 831-1975

Following Is A Partial List Of References:

Charlie Heckenlaible Special Assets Division Comerica Bank 301 E Ocean Blvd, #1800 Long Beach, CA 90802 (562) 590-2552	Kenneth A. Krasne, Court Appointed Receiver United States Federal and California Superior Courts KRASNE & COMPANY, INC. 21535 Hawthorne Boulevard, Suite 510 Torrance, CA 90503 Phone (310) 944-9724 (Ext. 223), Fax (310) 944-9734
Nigel Hamer EQUITABLE TRANSITIONS, Inc. THE HAMER GROUP 444 West Ocean Blvd., Suite 1400 Long Beach, CA 90802 (310) 409.6649	John M. Wolfe Attorney at Law 2603 Main Street, Suite 600 Irvine, CA 92614 (949) 476-2697
David Haberbush Haberbush & Campbell 444 West Ocean #600 Long Beach, CA 90802 (562) 435-3456	Barry Mitnick Special Assets Division Comerica Bank 301 E Ocean Blvd, #1800 Long Beach, CA 90802 (562) 951-2419
Steven E. Blair National Bank of California 12121 Wilshire Blvd., 14th Floor Brentwood, CA 90025 310.882.4800 Ext 2298 Office	Belinda Moffatt Senior Vice President Beach Business Bank 180 E Ocean Blvd., # 100 Long Beach, CA 90802 (562) 481-3425

N. L. Hanover, Trustee 665 North Arrowhead Ave P.O. Box 71 San Bernardino, CA 92402-0071 (909) 383-9162	Luis Ortiz MAS Moving & Storage 18450 East Gale Avenue City Of Industry, CA (626) 810-9200
Dale Heyden South County Bank, N.A. 2 Venture Suite 120 Irvine, CA 92618 Direct (949)766-3049; Fax (949)766-3041	Christopher Barclay, Trustee Mack / Barclay Inc. 600 Anton Blvd., Suite 1350 Costa Mesa, CA 92626 (714) 662-0800
Janice Bado Loan Protfolio Manager Business Community Bank 505 South Villa Real, Suite 101A Anaheim Hills, California 92807 (714) 283-9000	David W. Zittlow First Vice President-Western Market Comerica Bank 333 W. Santa Clara Street, M/C 4841, 12th Floor San Jose, CA 95113 Direct 408-556-5835
Dorothy M. Koster Vice President, Credit Management Group - SBA Wells Fargo Bank 100 West Washington Street, 21st Floor Phoenix, AZ 85003 Tel (602) 378 - 5315 | Fax (866) 672-6524	George Weinwurm Weinwurm Associates Inc. Warner Plaza, Suite 300 21550 Oxnard Street Woodland Hills, CA 91367 (818) 716-5058

Exhibit 4

Bond and Insurance

Bond Number: 0618662

AUCTIONEER BOND

KNOW ALL MEN BY THESE PRESENTS that we, VAN HORN AUCTIONS & APPRAISAL GROUP, LLC (hereinafter called Principal), as Principal, and the INTERNATIONAL FIDELITY INSURANCE COMPANY, its home office in Atlanta, Ga 30350 (hereinafter called Surety), as Surety, are held and firmly bound unto the UNITED STATES OF AMERICA (hereinafter called Obligee), in the full and just sum of FIFTEEN THOUSAND AND NO/100 ($15,000.00) Dollars, for the payment of which, well and truly to be made, the Principal and Surety hereby bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

NOW THEREFORE, the condition of this obligation is such that if the said Principal shall faithfully account for all money, assets and effects of bankruptcy case, CHARLES D. MCHUGH; CASE #8:12-BK-14904-ES , in which the Principal is serving as auctioneer, then this obligation to be void; otherwise to remain in full force in effect.

The liability of the Surety hereunder shall not exceed the aggregate sum of FIFTEEN THOUSAND AND NO/100 ($15,000.00) Dollars, for all claims asserted against this bond.

This bond shall remain in full force and effect from APRIL 30, 2013 to JULY 30, 2013.

SIGNED AND SEALED THIS 18TH day of MARCH, 2013.

VAN HORN AUCTIONS & APPRAISAL GROUP, LLC

By: Scott R Van Horn

INTERNATIONAL FIDELITY INSURANCE COMPANY

By: Catherine C. Kehoe
CATHERINE C. KEHOE, Attorney-In-Fact

Exhibit 4

Tel (973) 624-7200

POWER OF ATTORNEY

INTERNATIONAL FIDELITY INSURANCE COMPANY
ALLEGHENY CASUALTY COMPANY

ONE NEWARK CENTER, 20TH FLOOR NEWARK, NEW JERSEY 07102-5207

KNOW ALL MEN BY THESE PRESENTS: That **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and **ALLEGHENY CASUALTY COMPANY** a corporation organized and existing under the laws of the State of Pennsylvania, having their principal office in the City of Newark, New Jersey, do hereby constitute and appoint

EMILY G. LAPEYRE, LINDA C. SHEFFIELD, CONWAY C. MARSHALL, STEPHEN BEAHM, R. TUCKER FITZ-HUGH, CLARK P. FITZ-HUGH, DARLENE A. BORNT, CATHERINE C. KEHOE, KRISTINE DONOVAN, ELIZABETH K. WRIGHT

New Orleans, LA.

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 20th day of July, 2010 and by the Board of Directors of ALLEGHENY CASUALTY COMPANY at a meeting duly held on the 15th day of August, 2000:

"RESOLVED, that (1) the President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY have each executed and attested these presents on this 12th day of March, 2012.

INTERNATIONAL FIDELITY INSURANCE COMPANY CORPORATE SEAL 1904 NEW JERSEY

STATE OF NEW JERSEY
County of Essex

ROBERT W. MINSTER
Executive Vice President/Chief Operating Officer
(International Fidelity Insurance Company)
and President (Allegheny Casualty Company)

ALLEGHENY CASUALTY COMPANY 1936 PENNSYLVANIA

On this 12th day of March 2012, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

CATHY VAZQUEZ NOTARY PUBLIC STATE OF NEW JERSEY

A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 27, 2014

CERTIFICATION

I, the undersigned officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 18th day of MARCH, 2013

MARIA BRANCO, Assistant Secretary

Exhibit 4

STOCK COMPANY

COMMERCIAL LINES POLICY

Western World
INSURANCE GROUP

POLICY NUMBER: NPP8112877

Prior Policy Number: NPP1253834

[X] WESTERN WORLD INSURANCE COMPANY [ ] TUDOR INSURANCE COMPANY [ ] STRATFORD INSURANCE COMPANY

SLA# 04141408

COMMON POLICY DECLARATIONS

Agent/Broker #00514

Named Insured and Mailing Address:

Van Horn Auction Group

26895 Aliso Creek Rd, Ste B-569

Aliso Viejo, CA 92656

Producer:

Worldwide Facilities, Inc.
725 South Figueroa Street
19 Floor
Los Angeles, CA 90017

Policy Period: (Mo./Day/Yr.)

From: 12/04/2012 To:12/04/2013 12:01 AM, standard time at your mailing address shown above.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGES FOR WHICH A PREMIUM IS INDICATED.
THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	Commercial Property Coverage Part	$ NOT COVERED
	Commercial General Liability Coverage Part	$ 2,295.00
	Commercial Auto Coverage Part	$ NOT COVERED
		$
		$
		$
Other Coverages:	Terrorism Risk Insurance Act	$ NOT COVERED
		$
		$
		$
	TOTAL ADVANCE PREMIUM	$ 2,295.00
	Policy Fee - Fully Earned	$ 225.00
	Stamp Fee	$ 5.74
	State Tax	$ 68.85
		$
		$
		$
	GRAND TOTAL	$ 2,594.59

Forms and endorsements applying to this policy and attached at time of issue:

See Applicable Schedule Of Forms And Endorsements

Exhibit 4

WW230 (08/11)

INSURED

COMMON POLICY DECLARATIONS (continued)

POLICY NUMBER: NPP8112877

The Named Insured is:

☒ Individual ☐ Partnership ☐ Limited Liability Company ☐ Organization/Corporation ☐ Trust

☐ Other

Location of Business:
Same

Business Description:
Auctioneer away from premises

THESE DECLARATIONS TOGETHER WITH THE COVERAGE PART DECLARATIONS, THE COMMON POLICY CONDITIONS, COVERAGE FORM(S), AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

WESTERN WORLD INSURANCE GROUP

Western World Insurance Company
Tudor Insurance Company
Stratford Insurance Company

Administrative Office
400 Parson's Pond Drive
Franklin Lakes, New Jersey 07417-2600

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy. If required by state law, this policy shall not be valid unless countersigned by **our** authorized representative.

Secretary

President

Countersigned: Los Angeles, CA

01/03/2013 SEDRULEY

By

Authorized Representative

WW230 (08/11)

SCHEDULE OF FORMS AND ENDORSEMENTS

POLICY NUMBER:	NAMED INSURED
NPP8112877	Van Horn Auction Group

Form/Endorsement No./Edition Date	Title (Note- Titles are indications only. See actual form for correct name.)
WW230(08_11)	COMMON POLICY DECLARATIONS
WW232(01_12)	COMMERCIAL LIABILITY COVERAGE PART DECLARATIONS
IL0017(11_98)	COMMON POLICY CONDITIONS
IL0021(09_08)	NUCLEAR ENERGY LIABILITY EXCLUSION ENDT
WW183(05_12)	MINIMUM-EARNED PREMIUM
D-2(07_11)	CALIFORNIA NOTICE
WWCA01(12_11)	CALIFORNIA DISCLOSURE NOTICE PREMIUM REFUND
WW1(06_12)	DEDUCTIBLE ENDORSEMENT
WW13(06_12)	CLASSIFICATION LIMITATION
WW191(01_97)	CONTRACTUAL LIABILITY - AMENDMENTS
WW192(07_12)	PREMIUM BASIS ENDORSEMENT
WW204A(06_12)	STANDARD PROVISIONS ENDORSEMENT
WW401(06_12)	TOTAL ASBESTOS EXCLUSION
WW424(09_10)	EXCL OF NUCLEAR/BIO/CHEM INJURY OR DAMAGE
WW456(01_12)	COMMERCIAL GENERAL LIABILITY AMENDATORY ENDROSEMENT
CG0001(12_07)	COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG0068(05_09)	RECORDING/DISTR: MATERIAL IN VIOLATION OF LAW EXCL
CG2147(12_07)	EMPLOYMENT-RELATED PRACTICES EXCLUSION
CG2167(12_04)	FUNGI OR BACTERIA EXCLUSION
CG2173(01_08)	EXCLUSION OF CERTIFIED ACTS OF TERRORISM

ADDITIONAL FORMS AND ENDORSEMENTS

Exhibit 4

INSURED

COMMERCIAL LIABILITY COVERAGE PART
DECLARATIONS

Policy Number: NPP8112877

Effective Date: 12/04/2012
12:01 AM, Standard Time

COMMERCIAL GENERAL LIABILITY - LIMITS OF INSURANCE

General Aggregate Limit (Other Than Products-Completed Operations)	$ 2,000,000	
Products - Completed Operations Aggregate Limit	$ Included	†
Personal and Advertising Injury Limit	$ 1,000,000	Any One Person or Organization
Each Occurrence Limit	$ 1,000,000	
Damage to Premises Rented to You	$ 100,000	Any One Premises
Medical Expense Limit	$ 5,000	Any One Person
Each Professional Incident Limit (if applicable)	$ Not Covered	

† If the Limit is shown as Included, Products-Completed Operations are subject to the General Aggregate Limit.

PREMIUM

Classification	Code No.	Premium Basis	Rate		Advance Premium	
			Pr/Co	All Other	Pr/Co	All Other
Auctioneers - sales conducted away from the Insured's premises	91177	Payroll 33,600.00	Included	27.451	Included	2,295.00

Total Advance Premium $ 2,295.00

FORMS AND ENDORSEMENTS

Forms and Endorsements applying to this coverage part and made part of policy at time of issue:

See Schedule of Forms and Endorsements

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

Exhibit 4