

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>WEILAND, GOLDEN, SMILEY, WANG EKVALL & STROK, LLP Jeffrey I. Golden, State Bar No. 133040 jgolden@wglp.com Beth E. Gaschen, State Bar No. 245894 bgaschen@wglp.com 650 Town Center Drive, Suite 950 Costa Mesa, California 92626 Telephone: (714) 966-1000 Facsimile: (714) 966-1002</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 7 Trustee Richard A. Marshack</p>	<p>FOR COURT USE ONLY</p>
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

<p>In re: JERRY A. ALARCON AND MARTHA S. ALARCON,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 8:13-bk-16372-ES CHAPTER: 7</p> <p style="text-align: center;">NOTICE OF SALE OF ESTATE PROPERTY</p>
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<p>Sale Date: 04/01/2014</p>	<p>Time: 10:30 am</p>
<p>Location: Courtroom 5A, United States Bankruptcy Court, 411 West Fourth Street, Santa Ana, California 92701</p>	

Type of Sale: Public Private **Last date to file objections:** 03/18/2014

Description of property to be sold: All of the Estate's right, title and interest in the real property located at 2410 S. Maple Street, Santa Ana, California 92707.

Terms and conditions of sale: Sale is subject to any and all known and unknown liens pursuant to 11 U.S.C. Section 363(b). The sale is subject to Bankruptcy Court approval.

Proposed sale price: \$ 83,100.00

Overbid procedure (*if any*): None.

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

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

Date: 02/28/2014

1 **WEILAND, GOLDEN,**
2 **SMILEY, WANG EKVALL & STROK, LLP**
3 Jeffrey I. Golden, State Bar No. 133040
4 jgolden@wglp.com
5 Beth E. Gaschen, State Bar No. 245894
6 bgaschen@wglp.com
7 650 Town Center Drive, Suite 950
8 Costa Mesa, California 92626
9 Telephone: (714) 966-1000
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11
12 Attorneys for Chapter 7 Trustee
13 Richard A. Marshack

8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SANTA ANA DIVISION**

11 In re
12 JERRY A. ALARCON and MARTHA S.
13 ALARCON,
14
15 Debtors.

Case No. 8:13-bk-16372-ES
Chapter 7

**NOTICE OF HEARING ON MOTION FOR
ORDER APPROVING THE ASSET
PURCHASE AGREEMENT BETWEEN
THE TRUSTEE AND THE DEBTORS AND
AUTHORIZING DISPOSITION OF
PROPERTY OF THE ESTATE PURSUANT
TO 11 U.S.C. § 363(b)**

DATE: April 1, 2014
TIME: 10:30 a.m.
PLACE: Courtroom 5A
411 West Fourth Street
Santa Ana, California 92701

20 **TO ALL INTERESTED PARTIES:**

21 **PLEASE TAKE NOTICE** that on **April 1, 2014, at 10:30 a.m.** in Courtroom 5A of
22 the United States Bankruptcy Court located at 411 West Fourth Street, Santa Ana,
23 California, a hearing will be held on the *Motion for Order Approving the Asset Purchase*
24 *Agreement Between the Trustee and the Debtors and Authorizing Disposition of Property*
25 *of the Estate Pursuant to 11 U.S.C. § 363(b)* (the "Motion") filed by Richard A. Marshack,
26 the chapter 7 trustee (the "Trustee") of the bankruptcy estate (the "Estate") of Jerry A.
27 Alarcon and Martha S. Alarcon (the "Debtors").

25 **Summary of Motion**

26 By the Motion, the Trustee seeks approval of an asset purchase agreement
27 between the Trustee and the Debtors which provides for the Debtors' purchase of the real
28 property located at 2410 S. Maple St., Santa Ana, California (the "Property") for the
purchase price of no more than \$83,100.00.

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Smiley, Wang Ekvall & Strok, LLP
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Background

On July 26, 2013, the Debtors filed a petition for relief under chapter 7 of the Bankruptcy Code. The Debtors scheduled an interest in the Property, which is their primary residence. The Property is secured by a first deed of trust in the amount of approximately \$120,000.00. The Trustee's real estate broker valued the Property at approximately \$425,000.00. Given the amount of equity in the Property, the Trustee intended to sell the Property to the highest bidder for the benefit of the Estate. The Debtors, however, offered to purchase the Property by purchasing the equity at an amount sufficient to pay all creditors in full and the Trustee agreed.

The claims bar date passed on January 27, 2014. To date, the total amount of unsecured claims filed total \$45,121.16.

Summary of Terms of the Asset Purchase Agreement

The Trustee and the Debtors have entered into an asset purchase agreement (the "Agreement") which fully describes the terms of the sale of the Property. A true and correct copy of the Agreement is attached as Exhibit "1" to the Motion. The salient terms of the Agreement are as follows:

- A. The Agreement is subject to bankruptcy court approval;
- B. The Purchase Price (as defined in the Agreement) shall be no more than \$83,100.00. The Debtor shall pay the Purchase Price in two installments as follows:
 - (1) \$40,000.00 upon execution of the Agreement (the "First Installment"); and
 - (2) An amount sufficient to pay all allowed claims, including any fees and costs of the Trustee and his professionals, but in no event more than \$43,100.00, to be paid on March 1, 2014 (the "Second Installment"). The Trustee shall determine the amount of the Second Installment and provide this amount to the Debtors in writing no later than February 10, 2014. In the event that this amount is ultimately less than all allowed claims, the Debtors will be responsible for providing additional funds to the Trustee, up to \$43,100.00, within 5 days of receiving a written demand from the Trustee, in order to pay all claims in full.
- C. The Sale of the Property to the Debtors shall not be subject to overbids.
- D. In the event the Debtors fail to make the Second Installment, the Trustee shall return the First Installment to the Debtors, less \$5,000.00 as liquidated damages, and the Trustee will list the Property for sale and sell the Property to the highest bidder.
- E. In the event the Purchase Price is insufficient to pay allowed general unsecured claims 80% of their claims, the Trustee has the right, in his sole discretion, to terminate the Agreement. The Trustee shall return to the Debtors any and all portions of the Purchase Price in his possession and the Trustee will list the Property for sale and sell the Property to the highest bidder.
- F. The Trustee shall quitclaim the Estate's interest in the Property to the Debtors upon the approval of his final report. The Debtors are taking the Property subject to any and all known and unknown liens.

1 G. In the event that there are surplus funds in the Trustee's possession after
2 payment of all allowed claims in full, the surplus funds will be returned to the Debtors.

3 H. The Debtors are providing a release of the Trustee as specifically set forth in
4 the Agreement.

5 **Summary of Basis for Relief**

6 The sale of the Property to the Debtors is in the best interests of the Estate, as it
7 will allow the Trustee to expeditiously pay all claims in full and move forward with closing
8 the Estate. It is a valid exercise of the Trustee's business judgment and should be
9 authorized by the Court.

10 **Summary of Relief Sought by the Motion**

11 By the Motion, Trustee seeks entry of an order providing for the following relief:

- 12 1. Granting the Motion;
- 13 2. Approving the terms of the Agreement, a copy of which is attached to the
14 Motion as Exhibit "1";
- 15 3. Authorizing the Trustee to execute any documents or take any actions
16 reasonably necessary to effectuate the terms of the Agreement; and
- 17 4. For such other and further relief as this Court may deem just and proper.

18 The Motion is on file with the Bankruptcy Court.

19 **Your Rights May Be Affected.** You should read these papers carefully and
20 discuss them with your attorney, if you have one. (If you do not have an attorney, you
21 may wish to consult one.)

22 **Deadline for Opposition Papers.** This Motion is being heard on regular notice
23 pursuant to LBR 9013-1. If you wish to oppose this Motion, you must file a written
24 response with the Court and serve a copy of it upon the Movant or Movant's attorney at
25 the address set forth above no less than **14 days** prior to the above hearing date. If you
26 fail to file a written response to this Motion within such time period, the Court may treat
27 such failure as a waiver of your right to oppose the Motion and may grant the requested
28 relief.

Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure. The
undersigned hereby verifies that the above hearing date and time were available for this
type of Motion according to the judge's self-calendaring procedures.

Weiland, Golden,
Smiley, Wang Ekvall & Strok, LLP
650 Town Center Drive, Suite 950
Costa Mesa, California 92626
Tel 714-966-1000 Fax 714-966-1002

1 **PLEASE TAKE FURTHER NOTICE** that any party requesting a copy of the Motion
2 or any supporting documents filed with the Court with respect to the Motion may contact
3 counsel for the Trustee, Beth E. Gaschen, Weiland, Golden, Smiley, Wang Ekvall & Strok,
LLP by email at bgaschen@wgllp.com, by mail at 650 Town Center Drive, Suite 950,
Costa Mesa, California 92626, or by telephone at (714) 966-1000.

4 Dated: February 28, 2014

WEILAND, GOLDEN,
SMILEY, WANG EKVALL & STROK, LLP

By: /s/ Beth E. Gaschen
BETH E. GASCHEN
Attorneys for Chapter 7 Trustee,
Richard A. Marshack

Weiland, Golden,
Smiley, Wang Ekvall & Strok, LLP
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

650 Town Center Drive, Suite 950, Costa Mesa, California 92626

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF HEARING ON MOTION FOR ORDER APPROVING THE ASSET PURCHASE AGREEMENT BETWEEN THE TRUSTEE AND THE DEBTORS AND AUTHORIZING DISPOSITION OF PROPERTY OF THE ESTATE PURSUANT TO 11 U.S.C. § 363(B)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

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*) **February 28, 2014**, 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:

- Beth Gaschen bgaschen@wglp.com, msciesinski@wglp.com
- Richard A Marshack (TR) pkraus@marshackhays.com, rmarshack@ecf.epiqsystems.com
- Harlene Miller harlene@pagterandmiller.com, pandm@pagterandmiller.com
- Avi Schild bk@atlasacq.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **February 28, 2014**, 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*) **February 28, 2014**, 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.

The Honorable Erithe Smith, 411 W. 4th Street, 5th Floor, 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.

February 28, 2014

Date

Kelly Adele

Printed Name

/s/ Kelly Adele

Signature

In re **Alarcon, Jerry A.**
 Case No: 8:13-bk-16372-ES
 Revised: February 26, 2014 (MS)

MASTER CREDITOR SERVICE LIST

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JERRY A ALARCON
 2410 S MAPLE STREET
 SANTA ANA CA 92707-3262
DEBTOR

MARTHA S ALARCON
 2410 S MAPLE STREET
 SANTA ANA CA 92707-3262
JOINT DEBTOR

HARLENE MILLER
 PAGTER AND MILLER
 525 N CABRILLO PARK DR STE 104
 SANTA ANA CA 92701
COUNSEL FOR DEBTORS

RICHARD A MARSHACK
 MARSHACK HAYS LLP
 870 ROOSEVELT
 IRVINE CA 92620-3663
CHAPTER 7 TRUSTEE

UNITED STATES TRUSTEE
 411 W FOURTH ST SUITE 9041
 SANTA ANA CA 92701-8000

AMERICAN INFOSOURCE LP
 AS AGENT FOR
 MIDLAND FUNDING LLC
 PO BOX 268941
 OKLAHOMA CITY OK 73126-8941

ATLAS ACQUISITIONS LLC
 294 UNION STREET
 HACKENSACK NJ 07601

~~BEST BUY~~
~~PO BOX 60148~~
~~CITY OF INDUSTRY CA 91716-0148~~
MAIL RETURNED 11/5/13

CALIF STATE BOARD OF
 EQUALIZATION
 ACCT INFORMATION GROUP MIC:29
 PO BOX 942879
 SACRAMENTO CA 94279-0029

CAPITAL RECOVERY V, LLC
 C/O RECOVERY MGMT SYST CORP
 25 SE 2ND AVENUE STE 1120
 MIAMI FL 33131-1605

EMPLOYMENT DEVEL DEPT
 STATE OF CALIFORNIA
 BANKRUPTCY UNIT MIC 92E
 PO BOX 826880
 SACRAMENTO CA 94280-0001

FALS
 PO BOX 182155
 COLUMBUS CO 43218-2155

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

~~HOME DEPOT~~
~~PO BOX 105980 DEPT 51~~
~~ATLANTA GA 30353-5980~~
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HOME DEPOT
 PO BOX 6497
 SIOUX FALLS SD 57117-6497

HUNT AND HENRIQUES
 151 BERNAL RD 8
 SAN JOSE CA 95119-1491

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

~~JC PENNEY~~
~~PO BOX 3665~~
~~PORTLAND OR 97208~~
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~~JC PENNEY~~
~~PO BOX 27570~~
~~ALBUQUERQUE NM 87125~~
MAIL RETURNED 11/6/13

KOHL'S
 PO BOX 30510
 LOS ANGELES CA 90030-0510

LEGAL RECOVERY LAW SERVICES
 5030 CAMINO DE LA SIESTA
 SAN DIEGO CA 92108-3116

LOWES
 PO BOX 956005
 ORANDO FL 32896-0001

MACYS
 PO BOX 8215
 MASON OH 45040-8215

NORTHLAND GROUP
 PO BOX 390846
 EDINA MN 55439-0846

OCWEN LOAN SERVICING
 PO BOX 79135
 PHOENIX CA 85062-9135

PORTFOLIO RECOVERY ASSOC LLC
 PO BOX 41067
 NORFOLK VA 23541-1067

SAMA CLUB DISCOVER
 PO BOX 960013
 ORLANDO FL 32896-0013

~~SAMS CLUB~~
~~PO BOX 981400~~
~~EL PASO TX 79998-1400~~
MAIL RETURNED 11/6/13

SANTA ANA DIVISION
 411 W FOURTH STREET STE 2030
 SANTA ANA CA 92701-4500

SCHOOLS FIRST FCU
 ATTN ELMA MCCALLISTER
 PO BOX 11547
 SANTA ANA CA 92711-1547

SCHOOLS FIRST
 PO BOX 11908
 SANTA ANA CA 92711-1908

~~SEARS~~
~~PO BOX 555~~
~~COLUMBUS CO 43216~~
MAIL RETURNED 12/9/13

Weiland, Golden,
 Wang Ekvall & Strook, LLP
 650 Town Center Drive, Suite 850
 Costa Mesa, CA 92626
 TELEPHONE 714-966-1000

1 TARGET
3701 WAYZATA BL
MINNEAPOLIS MN 55416-3400

~~WAL-MART~~
~~PO BOX 2844~~
~~TUSCALOOSA AL 35403~~
MAIL RETURNED 11/10/13

~~WALMART~~
~~PO BOX 981400~~
~~EL PASO TX 79998-1400~~
MAIL RETURNED 11/6/13

3 WELLS FARGO BANK NA
PO BOX 10438
DEL MOINES IA 50306-0438

WELLS FARGO
PO BOX 10347
DES MOINES IA 50306-0347

LOS ANGELES COUNTY TAX
COLLECTOR
P.O. BOX 54110
LOS ANGELES, CA 90054

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**Weiland, Golden,
Smiley, Wang Ekvall & Strok, LLP**
650 TOWN CENTER DRIVE, SUITE 850
COSTA MESA, CA 92626
TELEPHONE 714-966-1000

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:

650 Town Center Drive, Suite 950, Costa Mesa, California 92626

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 indicated 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*) **February 28, 2014**, 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:

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- Richard A Marshack (TR) pkraus@marshackhays.com, rmarshack@ecf.epiqsystems.com
- Harlene Miller harlene@pagterandmiller.com, pandm@pagterandmiller.com
- Avi Schild bk@atlasacq.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

Service information continued on attached page

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The Honorable Erithe Smith, 411 W. 4th Street, 5th Floor, 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.

February 28, 2014

Date

Kelly Adele

Printed Name

/s/ Kelly Adele

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.