

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Lewis R. Landau (SBN 143391) Attorney-at-Law 22287 Mulholland Hwy., # 318 Calabasas, CA 91302 Voice and Fax: (888)822-4340 Email: Lew@Landaunet.com   <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 11 Trustee, John J. Menchaca	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY DIVISION**

In re: Steven Zigmund Kaller, III,          Debtor(s).	CASE NO.: 1:13-bk-14171-MB CHAPTER: 11          <p style="text-align: center;"><b>NOTICE OF SALE OF ESTATE PROPERTY</b></p>
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<b>Sale Date:</b> 07/07/2015	<b>Time:</b> 1:30 pm
<b>Location:</b> Courtroom 303; Judge Barash US Bankruptcy Court 21041 Burbank Blvd., 3rd Fl Woodland Hills, CA 91367	

**Type of Sale:**  Public  Private      **Last date to file objections:** 06/23/2015

**Description of property to be sold:** Residential real property  
 81294 Avenida Tres Lagunas, Indio, CA 92203  
 Free and Clear of Liens, Claims and Interests Subject to Overbid and Related Procedures

**Terms and conditions of sale:** See, motion attached hereto and Purchase Agreement attached thereto as Ex 1.

**Proposed sale price:** \$ 419,900.00

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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):** Bidders must qualify by 7/6/15 at noon. See motion at 2-6 attached.

First overbid \$430,000; bidding increments thereafter at \$5,000.

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

7/7/2015 at 1:30 p.m. Courtroom 303; Judge Barash US Bankruptcy Court 21041 Burbank Blvd., 3rd Fl Woodland Hills, CA 91367

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

Lewis R. Landau (SBN 143391)  
Attorney-at-Law  
22287 Mulholland Hwy., # 318  
Calabasas, CA 91302  
Voice and Fax: (888)822-4340  
Email: Lew@Landaunet.com

Date: 06/16/2015

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  Lewis R. Landau (SBN 143391) Attorney-at-Law 22287 Mulholland Hwy., # 318 Calabasas, CA 91302 Voice and Fax: (888)822-4340 Email: Lew@Landaunet.com   <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 11 Trustee, John J. Menchaca	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY DIVISION</b>	
In re:  Steven Zigmund Kaller, III,          Debtor(s).	CASE NO.: 1:13-bk-14171-MB CHAPTER: 11  <b>NOTICE OF MOTION FOR:</b> Order Authorizing Sale of 81294 Avenida Tres Lagunas, Indio, CA Free and Clear of Liens, Claims and Interests Subject to Overbid and Related Procedures  <b>(Specify name of Motion)</b>  DATE: 07/07/2015 TIME: 1:30 pm COURTROOM: Courtroom 303; Judge Barash PLACE: US Bankruptcy Court 21041 Burbank Blvd., 3rd Floor Woodland Hills, CA 91367

1. TO (*specify name*): All Parties in Interest:
2. NOTICE IS HEREBY GIVEN that on the following date and time and in the indicated courtroom, Movant in the above-captioned matter will move this court for an Order granting the relief sought as set forth in the Motion and accompanying supporting documents served and filed herewith. Said Motion is based upon the grounds set forth in the attached Motion and accompanying documents.
3. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)

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

4. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this Motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than fourteen (14) days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
5. **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.

Date: 06/16/2015

Lewis R. Landau, Attorney at Law  
Printed name of law firm

/s/ Lewis R. Landau  
Signature

Lewis R. Landau  
Printed name of attorney

1 **Lewis R. Landau** (CA Bar No. 143391)

2 **Attorney-at-Law**

3 22287 Mulholland Hwy., # 318

4 Calabasas, CA 91302

5 Voice & Fax: (888)822-4340

6 *Email: Lew@Landaunet.com*

7 Attorney for John J. Menchaca,  
8 Chapter 11 Trustee

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11 **UNITED STATES BANKRUPTCY COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **SAN FERNANDO VALLEY DIVISION**  
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In re

Steven Zigmund Kaller, III,

Debtor.

Case No.: 1:13-bk-14171-MB

Chapter 11

**CHAPTER 11 TRUSTEE'S MOTION FOR ORDER:**

**(1) AUTHORIZING SALE OF ESTATE'S RIGHT, TITLE AND INTEREST IN REAL PROPERTY LOCATED AT 81294 AVENIDA TRES LAGUNAS, INDIO, CA, FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS;**

**(2) APPROVING PROPOSED OVERBID PROCEDURES;**

**(3) DETERMINING THAT BUYERS ARE GOOD FAITH PURCHASERS;**

**(4) AUTHORIZING THE PAYMENT OF A FIRST LIEN AND COSTS OF SALE; &**

**(5) WAIVING THE FOURTEEN (14) DAY STAY PRESCRIBED BY FRBP 6004(h);**

**MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF JOHN J. MENCHACA IN SUPPORT THEREOF**

Hearing Date: July 7, 2015

Time: 1:30 p.m.

Place: Courtroom 303; Judge Barash

U.S. Bankruptcy Court

21041 Burbank Blvd, 3rd Floor

Woodland Hills, CA 91367

1 John J. Menchaca, the duly appointed and acting Chapter 11 trustee (the “Trustee”) of the  
2 bankruptcy estate (“Estate”) of the above-captioned Debtor, will and hereby does request an order  
3 authorizing the Trustee to sell the Estate’s interest in the residential real property commonly  
4 known as 81294 Avenida Tres Lagunas, Indio, CA and certain personal property items located  
5 therein pending an inventory (collectively “Indio Property” or “Property”) to John Vigil and Helen  
6 Vigil (the “Proposed Buyers”) for \$419,900, cash, on the terms and conditions specified in an  
7 accepted California Residential Purchase Agreement and Joint Escrow Instructions and Ticomo  
8 Valley Escrow Corp. escrow instructions, copies of which are collectively attached hereto as  
9 Exhibit 1 (collectively, the “Purchase Agreement”), or alternatively, to a higher bidder, free and  
10 clear of liens and other interests (“Motion”). This motion will be supplemented with such further  
11 documentation evidencing the inventory of personal property included within the sale.

12 As part of the Motion, the Trustee seeks an order approving the sale free and clear of all  
13 liens, claims, and interests, with said liens, claims, and interests to attach to the sales proceeds in  
14 the same manner and priority as under applicable law. The Property is being sold on an “as is,  
15 where is” basis, with no warranties, recourse, contingencies, or representations of any kind.  
16 Further, the Trustee seeks an order (i) approving the Trustee’s proposed overbid procedures; (ii)  
17 determining that the Proposed Buyers or any successful overbidder is entitled to § 363(m)  
18 protection; (iii) authorizing payment of the Nationstar Mortgage first lien and costs of sale from  
19 escrow, and (iv) waiving the fourteen (14) day stay prescribed by Rule 6004(h) of the Federal  
20 Rules of Bankruptcy Procedure.

21 **PROPOSED OVERBID PROCEDURES**

22 The proposed sale to the Proposed Buyers is subject to approval of the United States  
23 Bankruptcy Court and subject to qualified overbids of any third party. The Trustee’s proposed  
24 overbid procedures, which are subject to Court approval, are as follows:

25 **(1) Introduction**

26 The Proposed Buyers have offered to purchase the Indio Property for \$419,900 (the  
27 “Purchase Price”), \$11,997 of which has been tendered. The purchase of the Property is also  
28 subject to acceptance of certain terms and conditions agreed to by the Proposed Buyers in the

1 Purchase Agreement. The sale is also subject to overbid at the hearing on the Motion. The  
2 proposed overbid procedures (the “Overbid Procedures”) are as follows:

3 **(2) Intent To Bid And Overbid Amount**

4 Any party wishing to bid on the Property (“Overbidder”) shall advise the Trustee or his  
5 counsel of their intent to bid on the Property and the amount of their overbid (which must be at  
6 least \$10,100.00 more than the current selling price of \$419,900 (the “Initial Overbid”), by no  
7 later than 12:00 p.m., PDT, on July 6, 2015 (the “Overbid Deadline”). In his absolute and sole  
8 discretion, the Trustee shall have the right to approve any Overbidder for bidding prior to the  
9 hearing but after the Overbid Deadline.

10 **(3) Payment Of Deposit**

11 Any Overbidder shall provide the Trustee with a cashier’s check, payable to “John J.  
12 Menchaca, Chapter 11 Trustee of the Bankruptcy Estate of Steven Zigmund Kaller, III,” in an  
13 amount of \$11,997 (the “Deposit”). The Deposit must be delivered so that it is received by the  
14 Trustee’s counsel (whose name and address is set forth on the upper left corner of the first page of  
15 this Motion) by no later than the Overbid Deadline.

16 In the event of any Overbid, the \$11,997 deposit from the Proposed Buyer or successful  
17 Overbidder shall serve as the Deposit for the Proposed Buyer or any successful Overbidder, with a  
18 refund of such deposit to the party that is not the “Winning Bidder,” as such phrase is defined  
19 below.

20 **(4) Evidence Of Financial Ability To Perform**

21 Any Overbidder must provide the Trustee with evidence of the proposed Overbidder’s  
22 financial ability to pay the full amount of the Overbid so that such evidence is received by the  
23 Trustee’s counsel by no later than the Overbid Deadline.

24 **(5) Auction**

25 All parties who have submitted timely bids and otherwise satisfied the foregoing  
26 requirements will be able to participate in an *auktion to be conducted at the July 7, 2015 at 1:30*  
27 *p.m.* hearing on the Motion. The Initial Overbid will be in the amount of \$430,000, and any  
28 subsequent overbids will be in increments of \$5,000.00. The Trustee will request authority to sell

1 the Property to the bidder who makes the highest Overbid (the “Winning Bidder”), and for  
2 authority to sell the Property to the next highest bidder if the Winning Bidder fails to perform (the  
3 “Back-up Bidder”). The Trustee reserves the right to determine if any overbid is made on terms  
4 and conditions that are better than the terms and conditions of the Purchase Agreement. A failure  
5 of any party to accept the terms and conditions of the Purchase Agreement may result in a  
6 rejection of any overbid made at the auction.

7 **(6) Tender Of Balance Of Purchase Price**

8 The Winning Bidder’s Deposit shall be applied towards the total purchase price. The  
9 Winning Bidder must tender the balance of the total purchase price to the Trustee upon close of  
10 escrow. To the extent the Proposed Buyer or another Overbidder is not the Winning Bidder, that  
11 party’s Deposit will be refunded by the Trustee.

12 **(7) Agreement To Terms And Overbid Procedures**

13 Any Overbidder’s tender of the Deposit to the Trustee shall serve as that Overbidder’s  
14 agreement with these proposed overbid procedures and the terms of sale of the Property discussed  
15 herein.

16 This Motion is made pursuant to § 363(b)(1) and Federal Rules of Bankruptcy Procedure  
17 6004 and 6006 on the grounds that, based on the Trustee’s sound business justification, the  
18 Trustee believes the sale of the Property as set forth herein is in the best interests of the Estate.  
19 After solicitation of offers for the Property since employing a broker in October, 2014, the current  
20 offer from the Proposed Buyers is the highest and best offer received to date. Moreover, the  
21 Overbid Procedures provide a process by which the Trustee is able to secure a higher price for the  
22 Property.

23 This Motion is brought in accordance with §§ 363(b)(1) and (f) and Federal Rule of  
24 Bankruptcy Procedure 6004, and is made on the grounds that the sale is supported by a good  
25 business justification and is in the best interests of the Estate.

26 This Motion is based on the attached Memorandum of Points and Authorities, Declarations  
27 of John J. Menchaca, all exhibits attached to the declarations submitted herewith as well as all  
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1 other admissible evidence properly before the Court and any arguments and/or testimony to be  
2 presented at the hearing on the Motion.

3           **WHEREFORE**, the Trustee respectfully requests that the Court enter an order (i)  
4 authorizing the Trustee to sell the Property to the Proposed Buyers or any successful overbidder  
5 for \$419,900, cash, on the terms and conditions specified in the Purchase Agreement; (ii)  
6 approving the Trustee's proposed bidding procedures described herein; (iii) authorizing the sale  
7 free and clear of all liens and other interests pursuant to § 363(f), including the alleged joint  
8 interest of Mrs. Janet E. Kaller; (iv) authorizing the Trustee to pay: (a) the secured claim of  
9 Nationstar Mortgage, first trust deed holder, from the sale proceeds, (b) the prorated secured  
10 claims of the tax collector, and (c) all costs of sale (including but not limited to brokers'  
11 commissions including pro-rations, commission charges, title/taxes/recording charges and escrow  
12 charges); (v) authorizing the Trustee to retain Mrs. Kaller's share of the sale proceeds, (vi)  
13 authorizing the Trustee to execute any documents and take all actions necessary or appropriate to  
14 effectuate the sale; (vii) finding that the Proposed Buyers or any successful Overbidder are good  
15 faith purchasers as described in § 363(m); (viii) waiving the fourteen day stay period provided  
16 under Rule 6004(h) of the Federal Rules of Bankruptcy Procedure; and (ix) granting such other  
17 relief as the Court deems just and proper.

18 Dated: June 16, 2015

**Lewis R. Landau**  
**Attorney-at-Law**

By: /s/ Lewis R. Landau  
Lewis R. Landau  
Attorney for Trustee

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The Trustee seeks an order approving the sale of the Estate’s right, title, and interest in the  
5 Property. The Property consists of residential real property located at 81294 Avenida Tres  
6 Lagunas, Indio, CA and certain items of personal property located therein, subject to an inventory.  
7 The Trustee has retained a broker to market and sell the Property. This Motion to approval the  
8 proposed sale of the Property is a result of such efforts, as will be demonstrated below and in the  
9 Menchaca Declaration. The Trustee submits that the price obtained for the Property is its fair  
10 market value and that the sale is in the best interests of the creditors of the Estate. The Trustee  
11 believes all prerequisites for approval of the sale under applicable provisions of the Bankruptcy  
12 Code have been satisfied and therefore urges the Court to grant the Motion.

13 **II.**

14 **BACKGROUND**

15 **A. Introductory Facts and Case Status<sup>1</sup>**

16 On June 20, 2013 Debtor filed his voluntary petition under chapter 11 of the Bankruptcy  
17 Code. On June 23, 2014 the Court entered its order granting Todd Beutel’s motion to appoint a  
18 chapter 11 trustee and on June 25, 2014 the Trustee was duly appointed.

19 The claims bar date in Debtor’s case was November 1, 2013. Trustee’s claim  
20 reconciliation reflecting filed proofs of claim (“POC”) and scheduled claims setting forth an  
21 amount not scheduled as disputed, unliquidated or contingent is attached hereto as Exhibit 4.  
22 Claim amounts set forth on Exhibit 4 may have changed due to further accrual or payments during  
23 the pendency of the case. For example, Debtor advises the Trustee that the Nationstar Mortgage  
24 claims is paid down to approximately \$25,000.

25 \_\_\_\_\_  
26 <sup>1</sup> Trustee provides a detailed statement of the case status herein due to lack of a regularly set  
27 chapter 11 case status hearing in this case. At the July 7, 2015 hearing, and in consultation with  
28 the Office of the United States Trustee, the Trustee intends to request that the Court schedule a  
regular chapter 11 status hearing in this case.

1 Todd Beutel and Amanda Shulman are Debtor's two primary unsecured creditors. Beutel  
2 filed proof of claim ("POC") # 11 in the amount of \$554,195.70. Shulman filed POC # 18 in the  
3 amount of \$1,560,572.80. Other unsecured or priority unsecured claims, excluding Beutel,  
4 Shulman and an unknown deficiency amount due Santander Bank (after the sale of collateral),  
5 total \$85,342 per the amounts set forth on Exhibit 4. Trustee anticipates approximately \$75,000 in  
6 administrative expenses through the sale contemplated herein, excluding Debtor's counsel's fees.

7 Debtor's schedules reflect that Debtor's real estate assets consist of Debtor's interest in a  
8 residence at 1401 Winshore Way, Oxnard, CA ("Oxnard Property"), residential real property at  
9 81294 Avenida Tres Lagunas, Indio, CA ("Indio Property") and an office condominium from  
10 which Debtor's operates his business at 30423 Canwood Street # 227, Agoura Hills, CA ("Agoura  
11 Property").

12 Debtor's schedules reflect that Debtor's primary personal property assets consist of his  
13 interest in Kaller Management, Inc. ("KMI") a business consulting firm and an IRA account. A  
14 bond fund financial account was liquidated during the bankruptcy case with proceeds used to  
15 setoff the balance due Bank of America [POC # 16; ECF # 78].

16 The Trustee has approximately \$35,000 cash on hand in the estate. Debtor represented that  
17 as a component of resolving his case he has and is willing to transfer to the Trustee \$25,000 from  
18 KMI and \$50,000 in loan proceeds from his IRA. Debtor further represents he can fund \$5,000  
19 monthly from KMI starting in June, 2015 and a total of \$7,500 monthly once the Indio Property is  
20 sold and the mortgage satisfied.

21 In regard to litigation, Shulman filed a complaint to determine non-dischargeability of debt  
22 on September 30, 2013 assigned adversary proceeding number 1:13-ap-01218 MB. The Shulman  
23 complaint was dismissed with prejudice on May 8, 2014. Beutel filed a complaint to determine  
24 non-dischargeability of debt and objection to discharge on April 1, 2014 assigned adversary  
25 proceeding number 1:14-ap-01063 MB. The matter remains pending at this time with a status  
26 hearing scheduled for November 11, 2015 at 1:30 p.m.

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1 Debtor filed an objection to the Shulman claim on November 13, 2014. The objection to  
2 claim remains pending at this time with a continued hearing scheduled for June 30, 2015 at 1:30  
3 p.m.

4 In order to promote the just, speedy and inexpensive determination of Debtor's chapter 11  
5 case, the Trustee, Debtor, Beutel and Shulman conducted a settlement conference on June 5, 2015.  
6 Debtor, Beutel and Shulman have tentatively settled their disputes and agreed upon claim  
7 treatments subject to dismissal of Debtor's chapter 11 case. The Trustee is amenable to  
8 facilitating the consensual disposition of the chapter 11 case on the condition that all  
9 administrative expenses and unsecured creditors expressly consent to such dismissal or receive  
10 payment in full. The sale provided for in this motion was a consensual aspect of the settlement  
11 conference and provides funding to pay claims upon dismissal. If the parties agree upon a written  
12 case management stipulation, it is anticipated that the Debtor will move to voluntarily dismiss his  
13 chapter 11 case in the next 60 to 90 days.

14 **B. The Subject Property**

15 Prior to the Petition Date, the Debtor owned, in fee simple, a single-family residence  
16 located at 81294 Avenida Tres Lagunas, Indio, CA (the "Indio Property"). The Debtor scheduled  
17 the Indio Property as jointly owned by the Debtor and his spouse, Janet E. Kaller. A true and  
18 correct copy of the Debtor's Schedule A is attached to the Declaration of John J. Menchaca as  
19 Exhibit 3. While the Trustee avers the Property is owned as community property despite the  
20 "joint tenancy" designation on title, the Trustee has secured the consent of Mrs. Kaller to the sale.  
21 A joinder in this motion is expected to be filed by Mrs. Kaller.

22 **C. Liens Asserted Against the Property and Proposed Treatment**

23 The Property is encumbered by that deed of trust held by Nationstar Mortgage per proof of  
24 claim # 15 and the preliminary title report attached hereto as Exhibit 2. The Trustee is informed  
25 by the Debtor that the Nationstar mortgage has been paid down to approximately \$25,000. The  
26 Trustee proposes to pay the Nationstar lien in full as well as property taxes prorated to closing.  
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1 F.2d 1063, 1069 (2d Cir. 1983)). As discussed more fully below, the Trustee’s proposed sale of  
2 the Property meets each of these requirements.

3 **B. Sound Business Purpose**

4 The decision to sell property out of the ordinary course of a debtor’s business must be  
5 based on the reasonable business judgment of the debtor. *In re Continental Air Lines, Inc.*, 780  
6 F.2d 1223, 1226 (5th Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063, 1070 (2nd Cir. 1983). In  
7 determining whether the business purpose is justified under § 363(b)(1), bankruptcy courts apply a  
8 flexible, case-by-case approach. *See In re Walter*, 83 B.R. 14, 19 (B.A.P. 9th Cir. 1988) (“the  
9 bankruptcy judge should consider all salient factors pertaining to the proceeding and, accordingly,  
10 act to further the diverse interests of the debtor, creditors and equity holders, alike.”) (quoting *In*  
11 *re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986)). The court should approve a  
12 sale of property under § 363(b)(1) if the trustee has established a sound business purpose for the  
13 proposed transaction. *In re Walter*, 83 B.R. 14, 16 (9th Cir. BAP 1988); *In re Wilde Horse*  
14 *Enterprises, Inc.*, 136 B.R. 830 (Bankr. C.D. Cal. 1991). The business judgment standard is  
15 deferential. *In re Lahijani*, 325 B.R. 282, 289 (B.A.P. 9th Cir. 2005) (“Ordinarily, the position of  
16 the trustee is afforded deference, particularly where business judgment is entailed in the analysis  
17 or where there is no objection.”).

18 The facts reflect that the Trustee’s decision to sell the Property is supported by sound  
19 business judgment because the price is fair and the sale will generate significant cash proceeds for  
20 the Estate. The sale price of \$419,900 will net approximately \$375,000 to the Estate for payment  
21 of administrative and unsecured claims which are obligations of the Estate. This constitutes a  
22 sound business purpose and the sale should be approved.

23 **C. The Price to Be Tendered is Reasonable**

24 The Trustee initially listed the Property for sale at \$390,000.00. The Trustee’s agent  
25 entered the listing of the Property in the commercial property listing service and marketed the  
26 Property through various media outlets. *See* ECF # 147. The price of \$419,900 for the Property is  
27 fair and reasonable and exceeds the initial listing price. As a result of marketing efforts of the  
28 Estate, the Proposed Buyer’s offer represents the highest amount the Trustee believes the Estate

1 will receive if marketing of the Property continues. As such, the price is reasonable under these  
2 circumstances.

3 **D. Notice**

4 The Trustee must give notice of any sale of property of the estate. 11 U.S.C. § 363(b)(1).  
5 In the instant matter, the Trustee will give notice to Debtor, his counsel, Mrs. Kaller (the Debtor's  
6 spouse), the United States Trustee, all known creditors, all known lien claimants and any other  
7 prospective buyers. Service of the Motion is proper and constitutes adequate and reasonable  
8 notice. Moreover, notice of the sale of the Property and bidding procedures will be published on  
9 the website for the United States Bankruptcy Court for the Central District of California.

10 **E. Sale Made in Good Faith**

11 "Good faith encompasses fair value, and further speaks to the integrity of the transaction."  
12 *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 842 (Bankr. C.D. Cal. 1991) (internal quotation  
13 marks omitted). Bad faith includes collusion between buyer and seller or otherwise taking unfair  
14 advantage of other potential purchasers, such as a collusive insider transaction.; *id.*; *see also In re*  
15 *Indus. Valley Refrigeration & Air Conditioning Supplies, Inc.*, 77 B.R. 15, 17 (Bankr. E.D. Pa.  
16 1987).

17 The sale of the Property was negotiated at arms' length. There is no fraud, collusion, or  
18 insider transactions present here, and the Proposed Buyer received no special treatment or  
19 consideration. Moreover, the Property has been actively marketed, the sale will be properly  
20 publicized on the Bankruptcy Court's website, and the Trustee intends to further market the  
21 property pending a hearing on this Motion. In short, the Trustee has accepted the highest and best  
22 offer. As a result, the sale is made in good faith.

23 **F. Sale of the Property Free and Clear of Liens Under 11 U.S.C. § 363(f)**

24 The Trustee seeks authority to complete the sale free and clear of all liens, claims, and  
25 interests. § 363(f) allows a trustee to sell property of the bankruptcy estate "free and clear of any  
26 interest in such property of an entity," if any one of the following five conditions is met:

- 27 (1) Applicable non-bankruptcy law permits a sale  
28 of such property free and clear of such interest;

- 1 (2) Such entity consents;
- 2 (3) Such interest is a lien and the price at which
- 3 such property is to be sold is greater than the
- 4 aggregate value of all liens on such property;
- 5 (4) Such interest is in bona fide dispute; or
- 6 (5) Such entity could be compelled, in a legal or
- 7 equitable proceeding, to accept money satisfaction of
- 8 such interest.

9 11 U.S.C. § 363(f).

10 Section 363(f) is written in the disjunctive, such that satisfaction of any one of the five  
11 conditions is sufficient to allow a debtor in possession to sell property of the estate free and clear  
12 of liens. *In re Gerwer*, 898 F. 2d 730 (9th Cir. 1990).

13 First, in the event of an objection to the instant motion, the proposed sale may also proceed  
14 free and clear of liens under § 363(f)(3). Under this subsection, a trustee may sell property of the  
15 estate only if the price at which such property is sold is greater than the aggregate “value” of all  
16 liens on such property. 11 U.S.C. § 363(f)(3). A party asserting a lien on property of the estate is  
17 “secured” only to extent of the value of the property on which its lien, claim or interest is fixed,  
18 and the balance of any such lien, claim of interest is “unsecured.” Bankruptcy Code § 506(a)  
19 limits the secured status of a creditor’s claim to the lesser of the allowed amount of the claim or  
20 the value of the collateral. *In re McCombs Properties VI, Ltd.*, 88 B.R. 261, 266 (Bankr. C.D. Cal.  
21 1988). Accordingly, any creditor claiming an interest in property of the estate to be sold holds a  
22 security interest only up to the fair market value of the property itself. When the proposed sale  
23 price represents the highest price available for the assets, then the sale free and clear of liens may  
24 be approved under Code § 363(f)(3). *Romey v. Sun National Bank* (In re Two “S” Corporation),  
25 875 F. 2d 240, 243 (9th Cir. 1989) (holding that best evidence of value is the price reached in a  
26 commercially reasonable sale). In other words, the proposed sale will, by definition, realize the  
27 full economic value of the secured creditors’ interests in the property since claims are only  
28 allowed as secured claims under § 506(a) to the extent there is equity in the creditors’ collateral.  
*In re Terrace Gardens Park Partnership*, 96 B.R. 707 (Bankr. W.D. Tex 1989).

1 Further, all lien claimants will be paid in full from the sale proceeds. Therefore, §363(f)(3)  
2 is satisfied as to holders of secured claims.

3 Because Mrs. Kaller will consent to the sale, the Property can be sold free of her interest  
4 thereby satisfying § 363(f)(2).

5 Finally, the Trustee intends to notify all interested parties through the notice of motion.  
6 Any party objecting to such sale may file their objection with the Court and be heard at the hearing  
7 on the Motion. If there is no objection, the parties will be deemed to have consented to the sale of  
8 the Property. *See Veltman v. Whetzal*, 93 F.3d 517 (8th Cir. 1996) (failure to object to proposed  
9 sale, coupled with agreement authorizing sale free of interest, constituted consent); *Elliot, supra*  
10 (implied consent found); *In re Tabore, Inc.*, 175 B.R. 855 (Bankr. D. N.J. 1994) (failure to object  
11 to notice of sale or attend hearing deemed consent to sale for purposes of § 363); *In re Shary*, 152  
12 B.R. 724 (Bankr. N.D. Ohio 1993) (state’s failure to object to transfer of liquor license constituted  
13 consent to sale). If there is objection, then the interest is disputed based on the lack of disclosure  
14 thereof on the Exhibit 2 preliminary title report and a sale free and clear is authorized under §  
15 363(f)(4).

16 Thus, pursuant to § 363(f), the Trustee may sell the Property free and clear of any interest  
17 of entities other than the bankruptcy estate because the noticed parties will be deemed to have  
18 consented to the sale of the Property if they make no objections to the sale or are otherwise  
19 disputed.

20 **G. Waiver of the Fourteen-Day Period for Effectiveness of Sale Order**

21 Rule 6004(h) provides that “An order authorizing the use, sale, or lease of property other  
22 than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the  
23 court orders otherwise.” FRBP 6004(h). The legislative history to Rule 6004 provides:

24 The court may, in its discretion, order that Rule 6004(g) [now  
25 6004(h)] is not applicable so that the property may be used, sold, or  
26 leased immediately in accordance with the order entered by the  
27 court. Alternatively, the court may order that the stay under Rule  
28 6004(g) [now 6004(h)] is for a fixed period less than 10 [now 14]  
days.

1           Given the notice and full opportunity to object, respond, or participate in overbid  
2 procedures presented by this Motion, the Trustee believes that, unless there are objections to the  
3 Motion that are not consensually resolved, it is appropriate and good cause exists for the Court to  
4 order that Rule 6004(h) is not applicable, and the Property may be sold immediately. Accordingly,  
5 the Trustee requests that the Court authorize the sale to be effectuated immediately upon entry of  
6 the order approving this Motion.

7           **H. Good Faith Purchaser Determination**

8           The proposed Buyer is a good faith purchaser entitled to the protections of § 363(m).  
9 “Though the Bankruptcy Code and Rules do not provide a definition of good faith, courts  
10 generally have followed traditional equitable principles in holding that a good faith purchaser is  
11 one who buys ‘in good faith’ and ‘for value.’” *In re Ewell*, 958 F.2d 276, 281 (9th Cir. 1992)  
12 (citing *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147 (3rd Cir. 1986). Lack of  
13 good faith may be shown by “fraud, collusion between the purchaser and other bidders or the  
14 trustee, or an attempt to take grossly unfair advantage of other bidders.” *In re Ewell*, 958 F.2d 276,  
15 281 (9th Cir. 1992) (quoting *In re Suchy*, 786 F.2d 900, 902 (9th Cir. 1985)); see also *In re Indus.*  
16 *Valley Refrigeration & Air Conditioning Supplies, Inc.*, 77 B.R. 15, 17 (Bankr. E.D. Pa. 1987)  
17 (good faith requirement “focuses principally on the element of special treatment of the debtor’s  
18 insiders in the sale transaction”).

19           In this case, the proposed sale is not predicated on fraud or collusion, and the sale is not to  
20 an insider, nor have any insiders received any special treatment or consideration. The Trustee’s  
21 declaration confirms the arms-length nature of the transaction. Based upon the foregoing, the  
22 Trustee submits that the Motion satisfies the standards for approval of a sale of the Property  
23 outside of the ordinary course of business pursuant to § 363(b), and good cause exists to make a  
24 finding that the Buyer or any overbidders are purchasing the Property in “good faith” pursuant to §  
25 363(m).

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1 IV.

2 CONCLUSION

3 For the reasons set forth above, the Trustee respectfully requests that the Court enter an  
4 order that provides:

- 5 1. The Property constitutes property of the bankruptcy estate;
- 6 2. The Trustee is authorized to enter into the Sale Agreement;
- 7 3. The Trustee is authorized to sell the Property;
- 8 4. The Trustee's proposed overbid procedures are approved;
- 9 5. The sale shall be free and clear of all liens and other interests pursuant to 11 U.S.C.  
10 § 363(f);
- 11 6. The Trustee may pay the following out of escrow – (a) the claim of Nationstar  
12 Mortgage, first trust deed holder, (b) the prorated liens of the tax collector, and (c) all costs of sale  
13 (including but not limited to brokers' commissions including pro-rations, commission charges,  
14 title/taxes/recording charges and escrow charges);
- 15 7. The Trustee may retain all funds from the sale to pay claims in the Estate;
- 16 8. The Trustee may execute any documents and take all actions necessary or  
17 appropriate to effectuate the sale;
- 18 9. The Trustee is authorized to pay the commission of \$25,194;
- 19 10. Finding that the Proposed Buyers or any successful overbidders are entitled to the  
20 protections set forth in § 363(m) as good faith purchasers;
- 21 11. Waiving the fourteen day stay period provided under FRBP 6004(h); and
- 22 12. Granting such other relief as the Court deems just and proper.

23 Dated: June 16, 2015

**Lewis R. Landau**  
**Attorney-at-Law**

24  
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26 *By: /s/ Lewis R. Landau*  
Lewis R. Landau  
Attorney for Trustee  
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**DECLARATION OF JOHN J. MENCHACA**

I, John J. Menchaca, declare as follows:

1. I am an individual over the age of eighteen, and I am the duly appointed, qualified, and acting Chapter 1 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of Steven Zigmund Kaller, III (the “Debtor”). Except as otherwise indicated, all statements made herein are based on my personal knowledge or my review of relevant documents. If called to testify as a witness in this matter, I could and would competently testify under oath to the truth of the statements set forth herein.

2. On June 20, 2013 Debtor filed his voluntary petition under chapter 11 of the Bankruptcy Code. On June 23, 2014 the Court entered its order granting Todd Beutel’s motion to appoint a chapter 11 trustee and on June 25, 2014, I was duly appointed. I continue to act in the capacity of chapter 11 Trustee.

3. The Debtor listed a joint tenancy interest in residential real property located at 81294 Avenida Tres Lagunas, Indio, CA (“Indio Property”). Attached hereto as Exhibit 3 is a true and correct copy of the Debtor’s Schedule A. Although listed as a joint interest with Debtor’s spouse, I am informed and believe that Debtor’s spouse consents to the sale of the Indio Property as set forth herein with all net proceeds of sale becoming an asset of my estate. I believe that Mrs. Kaller will file a joinder in my sale motion.

4. On October 24, 2014, the Court entered an order granting the employment of RE/MAX Masters Realty as the Estate’s real estate agent (the “Agent”) (ECF No. 150). Since employment, the estate’s realtors have marketed the Indio Property for sale.

5. On or about May 19, 2015, John Vigil and Helen Vigil (the “Proposed Buyers”) submitted the Residential Purchase Agreement and Joint Escrow Instructions which I accepted subject to Bankruptcy Court approval on June 10, 2015 (collectively, the “Purchase Agreement”) whereby the Proposed Buyers have agreed to buy the Property and various items of personal property located therein for the sum of \$419,900 on the terms and conditions set forth therein. A true and correct copy of the complete Purchase Agreement and related escrow instructions are attached hereto as Exhibit 1.



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**DECLARATION OF LEWIS R. LANDAU**

I, Lewis R. Landau, do hereby declare:

1. I am an attorney duly admitted to practice law in the State of California and before the Courts of the United States District Court for the Central District of California. I am counsel of record for John J. Menchaca chapter 11 trustee in case number 1:13-bk-14171 MB in which Steven Zigmund Kaller, III is the chapter 11 debtor.

2. Attached to my declaration as Exhibit 4 is a true and correct claims reconciliation I prepared based on voluminous documentation consisting of Debtor’s bankruptcy schedules [ECF # 1] and proofs of claim within the Court’s electronic claim file.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 16<sup>th</sup> day of June, 2015 at Los Angeles, California.

*/s/ Lewis R. Landau*  
Lewis R. Landau

# **EXHIBIT 1**



CALIFORNIA ASSOCIATION OF REALTORS®

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (C.A.R. Form RPA-CA, Revised 11/14)

Date Prepared: 05/21/2015

1. OFFER:

- A. THIS IS AN OFFER FROM John Vigil, Helen Vigil ("Buyer").
B. THE REAL PROPERTY to be acquired is 81294 Avenida Tres Lagunas, Indio, CA 92203, situated in Indio (City), Riverside (County), California, 92203 (Zip Code), Assessor's Parcel No. 691-410-058 ("Property").
C. THE PURCHASE PRICE offered is Three Hundred Ninety-Nine Thousand, Nine Hundred Dollars \$ 399,900.00
D. CLOSE OF ESCROW shall occur on (date) (or) 30 Days After Acceptance.
E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent Remax/Masters Realty (Print Firm Name) is the agent of (check one): the Seller exclusively; or both the Buyer and Seller. Selling Agent Windermere So Cal (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): the Buyer exclusively; or the Seller exclusively; or both the Buyer and Seller.
C. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 11,997.00
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, cashier's check, personal check, other within 3 business days after Acceptance (or);
OR (2) Buyer Deposit with Agent: Buyer has given the deposit by personal check (or) to the agent submitting the offer (or to), made payable to. The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or). Deposit checks given to agent shall be an original signed check and not a copy.

(Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)

- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ within Days After Acceptance (or). If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.

- C. ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or Buyer shall, within 3 (or) Days After Acceptance, Deliver to Seller such verification.

D. LOAN(S):

- (1) FIRST LOAN: in the amount of \$ 299,900.00 This loan will be conventional financing or FHA, VA, Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(2) SECOND LOAN in the amount of \$ This loan will be conventional financing or Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified in 3D(1), Buyer has 17 (or) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHAVA amendatory clause (C.A.R. Form FVAC) shall be a part of this transaction.

E. ADDITIONAL FINANCING TERMS:

- F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 88,003.00 to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

- G. PURCHASE PRICE (TOTAL): \$ 399,900.00

Buyer's Initials ( ) ( )

Seller's Initials ( ) ( )

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RPA-CA REVISED 11/14 (PAGE 1 OF 10)

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 1 OF 10)



Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

**H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or \_\_\_\_\_) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. ( Verification attached.)

**I. APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or  is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or \_\_\_\_\_) Days After Acceptance.

**J. LOAN TERMS:**

**(1) LOAN APPLICATIONS:** Within 3 (or \_\_\_\_\_) Days After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. ( Letter attached.)

**(2) LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement.

**(3) LOAN CONTINGENCY REMOVAL:**

Within 21 (or \_\_\_\_\_) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

**(4)  NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

**(5) LENDER LIMITS ON BUYER CREDITS:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

**K. BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

**4. SALE OF BUYER'S PROPERTY:**

**A.** This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

**OR B.**  This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

**5. ADDENDA AND ADVISORIES:**

**A. ADDENDA:**

	Addendum #	(C.A.R. Form ADM)
<input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO)		Court Confirmation Addendum (C.A.R. Form CCA)
<input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)		
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)		Other

**B. BUYER AND SELLER ADVISORIES:**

<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)	
<input type="checkbox"/> Probate Advisory (C.A.R. Form PAK)	Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	REO Advisory (C.A.R. Form REO)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	Other

**6. OTHER TERMS:**

\_\_\_\_\_

\_\_\_\_\_

**7. ALLOCATION OF COSTS**

**A. INSPECTIONS, REPORTS AND CERTIFICATES:** Unless otherwise agreed in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.

(1)  Buyer  Seller shall pay for a natural hazard zone disclosure report, including tax  environmental  Other: CLUE prepared by \_\_\_\_\_

(2)  Buyer  Seller shall pay for the following Report Termite Report prepared by \_\_\_\_\_

(3)  Buyer  Seller shall pay for the following Report \_\_\_\_\_ prepared by \_\_\_\_\_

Buyer's Initials (                      ) (                      )

Seller's Initials (                      ) (                      )

RPA-CA REVISED 11/14 (PAGE 2 OF 10)

**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 2 OF 10)**



Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

**B. GOVERNMENT REQUIREMENTS AND RETROFIT:**

- (1)  Buyer  Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
- (2) (i)  Buyer  Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
- (ii)  Buyer  Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
- (iii) Buyer shall be provided, within the time specified in paragraph 14A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

**C. ESCROW AND TITLE:**

- (1) (a)  Buyer  Seller shall pay escrow fee Each to pay their Own.
- (b) Escrow Holder shall be CV Escrow.
- (c) The Parties shall, within 5 (or     ) Days After receipt, sign and return Escrow Holder's general provisions.
- (2) (a)  Buyer  Seller shall pay for owner's title insurance policy specified in paragraph 13E     .
- (b) Owner's title policy to be issued by Orange Coast Title.
- (Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

**D. OTHER COSTS:**

- (1)  Buyer  Seller shall pay County transfer tax or fee     .
- (2)  Buyer  Seller shall pay City transfer tax or fee     .
- (3)  Buyer  Seller shall pay Homeowners' Association ("HOA") transfer fee     .
- (4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4525.
- (5)  Buyer  Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
- (6) Buyer to pay for any HOA certification fee.
- (7)  Buyer  Seller shall pay for any private transfer fee     .
- (8)  Buyer  Seller shall pay for     .
- (9)  Buyer  Seller shall pay for     .
- (10)  Buyer  Seller shall pay for the cost, not to exceed \$ 600.00, of a standard (or  upgraded) one-year home warranty plan, issued by Old Republic Platinum, with the following optional coverages:  Air Conditioner  Pool/Spa  Other:     . Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

OR  Buyer waives the purchase of a home warranty plan. Nothing in this paragraph precludes Buyer's purchasing a home warranty plan during the term of this Agreement.

**8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:**

**A. NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in paragraph 8 B or C.

**B. ITEMS INCLUDED IN SALE:** Except as otherwise specified or disclosed,

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms and the following if checked:  all stove(s), except     ;  all refrigerator(s) except     ;  all washer(s) and dryer(s), except     ;
- (3) The following additional items:     .
- (4) Existing integrated phone and home automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are ( are NOT) included in the sale.
- (5) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 14A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 14B and C.
- (6) Seller represents that all items included in the purchase price, unless otherwise specified, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to 8B(4) and     , and (ii) are transferred without Seller warranty regardless of value.

**C. ITEMS EXCLUDED FROM SALE:** Unless otherwise specified, the following items are excluded from sale: (i) audio and video components (such as flat screen TVs, speakers and other items) if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component or item is attached to the Property; (ii) furniture and other items secured to the Property for earthquake purposes; and (iii)     .

     Brackets attached to walls, floors or ceilings for any such component, furniture or item shall remain with the Property (or  will be removed and holes or other damage shall be repaired, but not painted).

Buyer's Initials ( [Signature] )

Seller's Initials ( [Signature] )

RPA-CA REVISED 11/14 (PAGE 3 OF 10)

**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 3 OF 10)**

Produced with zipForm® by zipLogix 16070 Fifteen Mile Road, Fraser, Michigan 48026 [www.zipLogix.com](http://www.zipLogix.com)

Vigil Purchase



Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

9. CLOSING AND POSSESSION:

- A. Buyer intends (or  does not intend) to occupy the Property as Buyer's primary residence.
  - B. **Seller-occupied or vacant property:** Possession shall be delivered to Buyer: (i) at 6 PM or (  AM/  PM) on the date of Close Of Escrow; (ii)  no later than \_\_\_\_\_ calendar days after Close Of Escrow; or (iii)  at \_\_\_\_\_ AM/  PM on \_\_\_\_\_.
  - C. **Seller remaining in possession After Close Of Escrow:** If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as  C.A.R. Form SIP, for Seller continued occupancy of less than 30 days,  C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.
  - D. **Tenant-occupied property: Property shall be vacant at least 5 (or \_\_\_\_\_) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: if you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.**
- OR  **Tenant to remain in possession (C.A.R. Form TIP).**
- E. At Close Of Escrow: Seller assigns to Buyer any assignable warranty rights for items included in the sale; and Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.
  - F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

10. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer: (i) if required by Law, a fully completed: Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or SSD).
- (2) Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Broker.
- (3) **Note to Buyer and Seller:** Waiver of Statutory and Lead Disclosures is prohibited by Law.
- (4) Within the time specified in paragraph 14A, (i) Seller, unless exempt from the obligation to provide a TDS, shall, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ); (ii) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with a Supplemental Contractual and Statutory Disclosure (C.A.R. Form SSD)
- (5) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
- (6) In the event Seller or Listing Broker, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
- (7) If any disclosure or notice specified in paragraph 10A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within **3 Days After Delivery** in person, or **5 Days After Delivery** by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- B. **NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS:** Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet, and home energy rating pamphlet; (ii) disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; and Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. **WITHHOLDING TAXES:** Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
- D. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)
- E. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov/>. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

Buyer's Initials (                      ) (                      )  
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Seller's Initials (                      ) (                      )



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 4 OF 10)

Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

**F. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**

(1) SELLER HAS: 7 (or \_\_\_ ) Days After Acceptance to disclose to Buyer if the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or SSD).

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or \_\_\_ ) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

**11. CONDITION OF PROPERTY:** Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.

A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.

B. Buyer has the right to conduct Buyer Investigations of the Property and, as specified in paragraph 14B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.

C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.

**12. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**

A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); (iii) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; (v) review and seek approval of leases that may need to be assumed by Buyer; and (vi) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.

B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.

C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.

D. Buyer indemnity and seller protection for entry upon property: Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

**13. TITLE AND VESTING:**

A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.

B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: (i) monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.

C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.

D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

Buyer's Initials ( ) ( )  
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Seller's Initials ( ) ( )

**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 5 OF 10)**



Property Address: **81294 Avenida Tres Lagunas, Indio, CA 92203**

Date: **May 21, 2015**

E. Buyer shall receive a CLTA/ALTA "Homeowner's Policy of Title Insurance", if applicable to the type of property and buyer. If not, Escrow Holder shall notify Buyer. A title company can provide information about the availability, coverage, and cost of other title policies and endorsements. If the Homeowner's Policy is not available, Buyer shall choose another policy, instruct Escrow Holder in writing and shall pay any increase in cost.

**14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS:** The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).

A. **SELLER HAS: 7 (or \_\_\_ ) Days After Acceptance** to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5, 6, 7, 8B(4), 10A, B, C, and F, 11A and 13A. If, by the time specified, Seller has not Delivered any such item, Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement.

B. (1) **BUYER HAS: 17 (or \_\_\_ ) Days After Acceptance**, unless otherwise agreed in writing, to:  
(i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(4), and other applicable information, which Buyer receives from Seller, and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 10A.

(2) Within the time specified in paragraph 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.

(3) By the end of the time specified in paragraph 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 14A, then Buyer has **5 (or \_\_\_ ) Days After Delivery** of any such items, or the time specified in paragraph 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

(4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 14B(1) and before Seller cancels, if at all, pursuant to paragraph 14C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 14C(1).

C. **SELLER RIGHT TO CANCEL:**

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): (i) Deposit funds as required by paragraph 3A, or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; (ii) Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); (iii) Deliver a letter as required by paragraph 3J(1); (iv) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 3C or 3H; (v) In writing assume or accept leases or liens specified in 8B5; (vi) Return Statutory and Lead Disclosures as required by paragraph 10A(5); or (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 21B; or (viii) Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

D. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: (i) be in writing; (ii) be signed by the applicable Buyer or Seller; and (iii) give the other Party at least **2 (or \_\_\_ ) Days After Delivery** (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days Prior** to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 14.

E. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

F. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: (i) be signed by the applicable Buyer or Seller; and (ii) give the other Party at least **3 (or \_\_\_ ) Days After Delivery** to close escrow. A DCE may not be Delivered any earlier than **3 Days Prior** to the scheduled close of escrow.

G. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit. (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to \$1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

**15. FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within **5 (or \_\_\_ ) Days** Prior to Close of Escrow, **NOT AS A CONTINGENCY OF THE SALE**, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).

Buyer's Initials (                      ) (                      )

Seller's Initials (                      ) (                      )

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**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 10)**



Property Address: **81294 Avenida Tres Lagunas, Indio, CA 92203**

Date: **May 21, 2015**

**16. REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.

**17. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.

**18. BROKERS:**

**A. COMPENSATION:** Seller or Buyer, or both, as applicable, agree to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.

**B. SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

**19. REPRESENTATIVE CAPACITY:** If one or more Parties is signing this Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 31 or 32 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within 3 Days After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).

**20. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**

**A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10C, 13, 14G, 17, 18A, 19, 20, 26, 29, 30, 31, 32 and paragraph D of the section titled Real Estate Brokers on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 18A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 (or \_\_\_ ) Days, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 10 or elsewhere in this Agreement.**

**B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days After Acceptance (or \_\_\_\_\_). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.**

**C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 18A and paragraph D of the section titled Real Estate Brokers on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 18A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.**

Buyer's Initials (                      ) (                      )  
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Seller's Initials (                      ) (                      )



**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 7 OF 10)**

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Vigil Purchase

Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

**21. REMEDIES FOR BUYER'S BREACH OF CONTRACT:**

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. **LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Except as provided in paragraph 14G, release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. **AT THE TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).**

Buyer's Initials                     

Seller's Initials                     

**22. DISPUTE RESOLUTION:**

- A. **MEDIATION:** The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Real Estate Mediation Center for Consumers ([www.consumemediation.org](http://www.consumemediation.org)) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. **THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.** Exclusions from this mediation agreement are specified in paragraph 22C.

**B. ARBITRATION OF DISPUTES:**

The Parties agree that any dispute or claim in law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 22C.

**"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."**

**"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."**

Buyer's Initials                     

Seller's Initials                     

**C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:**

- (1) **EXCLUSIONS:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.
- (2) **PRESERVATION OF ACTIONS:** The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.
- (3) **BROKERS:** Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.

Buyer's Initials (                      ) (                      )

Seller's Initials (                      ) (                      )

RPA-CA REVISED 11/14 (PAGE 8 OF 10)

**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 8 OF 10)**

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Vigil Purchase

Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203

Date: May 21, 2015

- 23. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
- 24. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
- 25. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 22A.
- 26. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller. (C.A.R. Form A0AA).
- 27. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 28. **TERMS AND CONDITIONS OF OFFER:**

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

- 29. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**

30. **DEFINITIONS:** As used in this Agreement:

- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
- B. "Agreement" means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
- C. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the parties.
- D. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded.
- E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
- F. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
- G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
- H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
- I. "Deliver", "Delivered" or "Delivery", unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 10, regardless of the method used (i.e., messenger, mail, email, fax, other).
- J. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
- K. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
- L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
- M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.

- 31. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by \_\_\_\_\_ who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by  AM/  PM, on \_\_\_\_\_ (date))

One or more Buyers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD) for additional terms.

Date 5/19/2015 BUYER [Signature]  
(Print name) John Vigil

Date 5/21/2015 BUYER [Signature]  
(Print name) Helen Vigil

Additional Signature Addendum attached (C.A.R. Form ASA).

Seller's Initials ( [Signature] ) ( \_\_\_\_\_ )



RPA-CA REVISED 11/14 (PAGE 9 OF 10)

**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 9 OF 10)**

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Vigil Purchase

Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203 Date: May 21, 2015

32. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, and agrees to sell the Property on the above terms and conditions. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

(If checked) SELLER'S ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED: \_\_\_\_\_

One or more Sellers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD) for additional terms.

Date 6/10/15 SELLER [Signature]  
 (Print name) JENNIFER M. MURPHY

Date \_\_\_\_\_ SELLER \_\_\_\_\_  
 (Print name) \_\_\_\_\_

Additional Signature Addendum attached (C.A.R. Form ASA).

(\_\_\_\_/\_\_\_\_) (Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) \_\_\_\_\_ at \_\_\_\_\_  
 AM/  PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

**REAL ESTATE BROKERS:**

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
- B. Agency relationships are confirmed as stated in paragraph 2.
- C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.
- D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) <u>Windermere So Cal</u>	CalBRE Lic. # <u>01325548</u>
By <u>[Signature]</u> <u>Patty Prunty</u>	CalBRE Lic. # <u>01939190</u> Date <u>5/21/15</u>
By _____	CalBRE Lic. # _____ Date _____
Address <u>47-250 Washington Ave</u>	City <u>La Quinta</u> State <u>CA</u> Zip <u>92203</u>
Telephone <u>(760)219-0288</u> Fax <u>(760)564-9686</u>	E-mail <u>patty@georgeandpatty.com</u>
Real Estate Broker (Listing Firm) <u>Remax/Masters Realty</u>	CalBRE Lic. # <u>1069901</u>
By <u>[Signature]</u> <u>Aaron Juarez</u>	CalBRE Lic. # <u>01245422</u> Date <u>6/10/15</u>
By _____	CalBRE Lic. # _____ Date _____
Address <u>14700 PIPELINE</u>	City <u>CANAAN</u> State <u>CA</u> Zip <u>91709</u>
Telephone _____ Fax _____	E-mail _____

**ESCROW HOLDER ACKNOWLEDGMENT:**

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked,  a deposit in the amount of \$ \_\_\_\_\_), counter offer numbers \_\_\_\_\_  Seller's Statement of Information and \_\_\_\_\_, and agrees to act as Escrow Holder subject to paragraph 20 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is \_\_\_\_\_

Escrow Holder \_\_\_\_\_ Escrow # \_\_\_\_\_  
 By \_\_\_\_\_ Date \_\_\_\_\_  
 Address \_\_\_\_\_  
 Phone/Fax/E-mail \_\_\_\_\_  
 Escrow Holder has the following license number # \_\_\_\_\_  
 Department of Business Oversight,  Department of Insurance,  Bureau of Real Estate.

PRESENTATION OF OFFER: (\_\_\_\_) Listing Broker presented this offer to Seller on \_\_\_\_\_ (date).  
 Broker or Designee Initials \_\_\_\_\_

REJECTION OF OFFER: (\_\_\_\_) (\_\_\_\_) No counter offer is being made. This offer was rejected by Seller on \_\_\_\_\_ (date).  
 Seller's Initials \_\_\_\_\_

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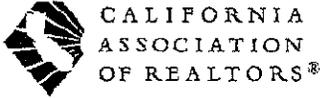
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 525 South Virgil Avenue, Los Angeles, California 90020  
**RPA-CA REVISED 11/14 (PAGE 10 of 10)**

Buyer's Acknowledge that page 10 is part of this Agreement (\_\_\_\_) (\_\_\_\_)

Reviewed by \_\_\_\_\_  
 Broker or Designee



**CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 10 OF 10)**



**BUYER'S INSPECTION ADVISORY**  
(C.A.R. Form BIA, Revised 11/14)

Property Address: 81294 Avenida Tres Lagunas, Indio, CA 92203 ("Property").

1. **IMPORTANCE OF PROPERTY INVESTIGATION:** The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.
2. **BROKER OBLIGATIONS:** Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.
3. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**
  - A. **GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.
  - B. **SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.
  - C. **WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.
  - D. **SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.
  - E. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS; WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.
  - F. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).
  - G. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.
  - H. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.
  - I. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.
  - J. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.
  - K. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.
  - L. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer John Vigil

Buyer Helen Vigil

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Reviewed by \_\_\_\_\_ Date \_\_\_\_\_

**BIA REVISED 11/14 (PAGE 1 OF 1)**

**BUYER'S INSPECTION ADVISORY (BIA PAGE 1 OF 1)**



### **ADDENDUM TO PURCHASE AGREEMENT**

This Addendum to the Residential Purchase Agreement dated May 21, 2015 (hereinafter called "Addendum") is entered into on this 8th day of June 2015, by and between John Vigil and Helen Vigil (hereinafter collectively referred to as "Buyer") and John J. Menchaca, as Chapter 11 Trustee for the bankruptcy estate of Steven Zigmund Kaller, III (hereinafter called "Seller" or "Trustee") pursuant to the terms and conditions as follows:

#### **RECITALS**

**WHEREAS** Steven Zigmund Kaller, III ("Debtor") in the bankruptcy proceeding entitled *In re* Steven Zigmund Kaller, III, Case No. 1:13-bk-14171 MB, is the joint owner of record of certain real property commonly known as: 81294 Avenida Tres Laguna, Indio, CA 92203 (hereinafter the "Subject Property").

**WHEREAS:** On June 20, 2013, the Debtor filed a petition seeking relief pursuant to Chapter 11, of Title 11, of the United States Bankruptcy Code.

**WHEREAS:** Within the Chapter 11 proceedings, John J. Menchaca was appointed as the Trustee to administer the assets of the bankruptcy estate, one of which is the Debtor's interest in the Subject Property.

**WHEREAS:** Pursuant to 11 U.S.C. § 363, John J. Menchaca, Chapter 11 Trustee and/or his attorneys will seek a Court Order authorizing the sale of the Subject Property.

**NOW THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

#### **CONDITIONS OF SALE**

1. **Purchase Price.** The purchase price for the Subject Property shall be \$419,900 (inclusive of certain personal property located thereon), subject to overbid at the time of the hearing on the approval of the sale.
2. **Termite Report/Repairs, Misc Repairs and Home Warranty.** The Buyer has agreed to waive the requirements and costs for a termite report and any repairs. The Buyer shall comply with any and all minimum mandatory government retrofit requirements. The Buyer will provide, if required by local law, a septic inspection and/or certificate. The Buyer will provide, and pay for, their own one-year home warranty plan.
3. **Escrow Holder and Closing.** The escrow holder shall be Seller's choice. Escrow is scheduled to close within ten days of the entry of the order approving the sale of the Subject Property. The Trustee may extend this time under his sole discretion and based on his business judgment.
4. **Escrow and Title Costs.** The Estate and the Buyer shall each pay their own percent of escrow fees and title costs.

5. Other Costs. The Seller shall be responsible for County and City transfer taxes or transfer fees. The Seller will provide a Natural Hazards Disclosure Report from Property ID of California. Buyer understands that the Seller is, however, exempt from signing the NHD report.
6. Bankruptcy Court Approval. The sale is expressly conditioned on approval of the United States Bankruptcy Court for the Central District of California, San Fernando Valley Division and entry of final order approving this Agreement.
7. Real Estate Agent Commission. Through escrow on the sale of the Subject Property, and subject to Bankruptcy Court approval, the Trustee shall pay compensation for real estate agent services to the Buyer's agent and the Estate's agent. The agents shall equally split the total amount of six percent (6%) of the gross selling price.
8. No Assignment. The Agreement is between the Buyer and the Trustee. The Buyer shall have no right to assign the Escrow, the Agreement, or transfer the Subject Property concurrent with closing without consent of the Seller.
9. Title Insurance. The title insurance policy shall be subject only to liens, encumbrances, clouds and other matters as may appear on the preliminary title report, that are not to be removed at the close of Escrow, and have not been objected to by the Buyer. Should Seller be unwilling or unable to eliminate those title matters disapproved by the Buyer as above, the Seller may terminate the Agreement or, should Seller fail to deliver good and marketable title as provided above, Seller and the Buyer may terminate the Agreement. In either case, the Buyer's deposit shall be returned to the Buyer, and the Buyer shall have no recourse against Seller, John J. Menchaca, as Bankruptcy Trustee, individually, or the law firm of Shulman Hodges & Bastian LLP, the Estate or the Debtor, or any real estate agent, broker or attorney involved in the transaction.
10. Limitations of Sale. The parties acknowledge that the operation of the law has placed the Trustee in a unique role as the Seller of the Subject Property. Due to the nature of the Trustee's role in administering the Estate, there are limitations as to the extent, type and character of the Agreement under which the Trustee can convey the Subject Property. The Trustee proposes to sell Subject Property to certain limitations. The parties acknowledge that they understand the terms under which the Subject Property is to be conveyed may vary substantially from the normal customs and trade within the real estate industry. Except where expressly mandated by operation of law, the Buyer consents to any such modifications and amendments.
11. Purchase without Warranties and Buyer Contingencies: The Buyer acknowledges that they are purchasing the Subject Property from the Seller "AS IS" without warranties of any kind, expressed or implied, being given by the Seller, concerning the condition of the Subject Property or the quality of the title thereto, or any other matters relating to the Subject Property. The Seller is unable to remove any debris or personal property left on the property

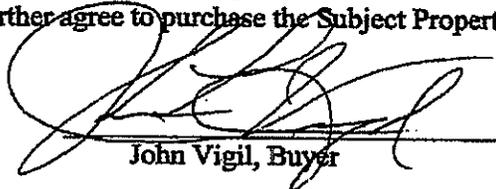
and does not warrant that there will be any appliances left on the property. The Buyer represents and warrants that they are purchasing the Subject Property as a result of their own investigations and are not buying the Subject Property pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction, or on the behalf of the Seller. The Buyer shall have 17 calendar days from acceptance to release all Buyer contingencies. Buyer shall, if FHA financing is not available, accept available conforming/conventional financing terms including increasing their down payment accordingly. Upon release of all Buyer's contingencies, the Buyer acknowledges that the Buyer has inspected the Subject Property, and upon closing of Escrow governed by this Agreement, the Buyer forever waives, for themselves, their heirs, successors and assigns, all claims against the Debtor, his attorneys, agents and employees, the Debtor's Estate, John J. Menchaca as Trustee and individually, and his attorneys, agents and employees, arising or which might otherwise arise in the future concerning the Subject Property.

12. 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 the Agreement, the assets, the sale of the Subject Property, or the physical condition of the Subject 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 Subject 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.
13. Hold Harmless:
  - (a) The Buyer understands the terms and conditions of the entire purchase contract and holds the Estate and the realtors, brokers, agents, John J. Menchaca, Trustee and his attorneys, agents and employees, harmless from any liabilities arising from this contact.
  - (b) All parties hereto further agree, jointly and severally, to pay on demand as well as to indemnify and hold Escrow harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of any kind or nature which in good faith, Escrow may incur or sustain in connection with or arising out of this Escrow and Escrow is hereby given a lien upon all the rights, titles and interest of each of the undersigned in all escrow papers and other property and monies deposited in this escrow, to protect the rights of escrow and to indemnify and reimburse Escrow under this Agreement. In the event this Escrow is not completed through fault or default of Buyer, Escrow is authorized to deduct and pay its fee, plus costs incurred from any funds on deposit.
14. Jurisdiction of the Bankruptcy Court. Any and all disputes which involve in any manner the Estate or John J. Menchaca, Trustee, arising from the Agreement and/or its Addendums or relating in any manner to the Subject Property, shall be resolved only in the United States Bankruptcy Court, Central District of California.

15. Sale Subject to Overbidding. The sale of the Subject Property is subject to the bidding procedures described in the motion for sale and such other rights as set forth in section 363 of the Bankruptcy Code.

We, the Buyer herein, have reviewed the foregoing Agreement and understand the terms and conditions set forth herein, and further agree to purchase the Subject Property pursuant to said terms and conditions.

Dated: 06/10/15

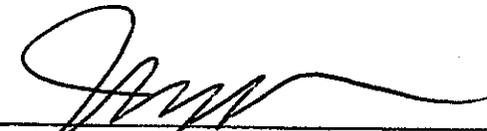
  
\_\_\_\_\_  
John Vigil, Buyer

Dated: 6/10/15

  
\_\_\_\_\_  
Helen Vigil, Buyer

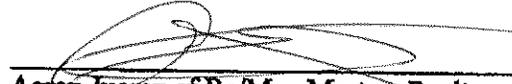
I, Seller, agree to sell the Subject Property pursuant to the terms and conditions set forth herein.

Dated: 6/11/15

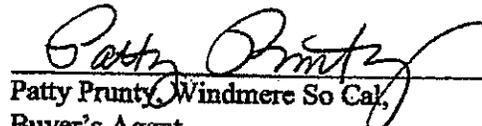
By:   
\_\_\_\_\_  
John J. Menchaca, in his sole capacity as  
Bankruptcy Trustee for the Estate of  
In re Steven Zigmund Kaller, III, and not in his  
individual capacity

SO AGREED.

Dated: 6/11/15

  
\_\_\_\_\_  
Aaron Juarez of Re/Max Masters Realty,  
Trustee's Agent

Dated: 6-10-15

  
\_\_\_\_\_  
Patty Prunty, Windmere So Cal,  
Buyer's Agent



TICOMO VALLEY CORPORATION ESCROW DIVISION

109 North Barranca Avenue, Covina CA 91723 Phone: (626) 967-2319 Fax: (626) 967-5586

TO: Ticomo Valley Corporation Escrow Division

Date: June 11, 2015
Escrow Officer: Lilly Toyer
Escrow Number: 2015266-LT

John Vigil and Helen Vigil, (hereinafter known as Buyer) agree to purchase from John J. Menchaca, solely in his capacity as Chapter 11 Trustee of the Bankruptcy Estate of Steven Zigmund Kaller, III, Case No. 1:13-BK-14171MB (hereinafter known as Seller) the real property set forth herein per the terms, conditions, consideration and instructions hereinafter stated.

Table with 3 columns: Description, Amount, and Total. Rows include Buyer's deposit, purchase price, and total consideration of \$419,900.00.

Furthermore, I will execute and deliver any instruments and/or funds which this escrow requires to show title as called for, all of which you are instructed to use within 10 days of the entry of the order approving the sale, provided you hold a Policy of Title insurance with the usual title company's exceptions, with a liability of not less than \$419,900.00, County of Riverside, State of California, described as follows:

Lot 149 of Tract No. 32390-1 in the City of Indio, County of Riverside, State of California, as per map recorded in Book 388 Page(s) 45 Through 56 of Maps, in the Office of the County Recorder of said County.

COMMONLY KNOWN AS: 81294 Avenida Tres Lagunas, Indio, CA 92203

SHOWING TITLE VESTED IN: John Vigil and Helen Vigil, Husband and Wife (complete vesting to follow)

SUBJECT TO:

- 1. General and Special County and City (if any) Taxes for the current fiscal year, not due or delinquent, including any special levies, payments for which are included therein and collected therewith.
2. Lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
3. Covenants, Conditions and Restrictions and reservations easements for public utilities, districts, water companies, alleys and streets, rights and rights of way of record, if any; also exceptions of oil, gas, minerals and hydrocarbons, and/or lease, if any, without the right of surface entry.
4. A New Conventional First Trust Deed to record, executed by Vestee herein, securing a Note for \$299,900.00 in favor of IMortgage, or order, bearing interest at a rate determined by the Lender, payable as required by the Lender.

DISCLOSURE: RE/MAX Masters Realty is a fictitious business name of Ticomo Valley Corporation. Ticomo Valley Corporation Escrow Division is simply a division of Ticomo Valley Corporation. Therefore, Ticomo Valley Corporation Escrow Division, a non-independent broker escrow company and RE/MAX Masters Realty is the same entity, and is licensed through the California Department of Real Estate, License #01064901.

INSTRUCTIONS TO ESCROW:

BANKRUPTCY COURT APPROVAL: The sale is expressly conditioned on approval of the United States Bankruptcy Court for the Central District of California, San Fernando Valley Division and entry of final order approving this agreement.

BUYER & PROPERTY TO QUALIFY FOR NEW LOAN: Buyer and property to qualify for and obtain the new loan(s) as set out above, and the depositing herein of the Lender's loan documents shall constitute satisfaction of this condition. The Buyer's signatures on the Lender's loan documents shall constitute their acceptance and approval of the terms and conditions contained therein.

COSTS AND CHARGES: Buyer and Seller shall pay the normal and customary charges in connection with the sale of subject property, including, but limited to the following: Each to pay one-half of the escrow fee; Seller to pay for title insurance policy, documentary transfer tax affixed to the Deed, reconveyance fee to reconvey existing loans of record; Buyer to pay for Lender Alta loan title policy, and recording fees for the Deed and Deed of Trust. Each to pay their own out of pocket expenses, if any.

HOMEOWNERS ASSOCIATION AND/OR CLUB DUES: Buyer has been made aware that there are homeowner's association and/or club dues affecting subject property that are mandatory and will be prorated at closing. Seller agrees to keep all dues current during escrow and states that the dues are approximately \$to be determined, monthly. Seller is to furnish escrow holder with all pertinent information regarding the above dues, and escrow holder shall verify same prior to closing. Escrow holder is authorized and instructed to debit seller at closing for any payments and/or monies due; debit buyer and pay at closing for the following month's

ATTACHED HERETO AND MADE A PART HEREOF
My initials below represent my agreement and acknowledgement of the foregoing
Page 1

BUYERS INITIALS \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

PLEASE INITIAL

dues: The transfer fee is to be paid by the seller at close of escrow. In the event that upfront fees are required to obtain the above mentioned documentation, the party specified in paragraph 7 of the original purchase agreement, as directed by escrow holder, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

**ZONE DISCLOSURE:** Escrow Holder is hereby authorized and instructed to deduct the cost of a property disclosure report and A-Plus report (if applicable) from proceeds due the undersigned Seller at the close of escrow.

**STRUCTURAL PEST CONTROL REPORT:** All parties herein agree and are aware that there will NOT be a pest control report issued through this transaction and hereby approve of same.

**STRUCTURAL PEST CONTROL REPORT:** Seller shall furnish at his/their expense a current report by a licensed structural pest control operator showing accessible areas of condominium unit located at 81294 Avenida Tres Lagunas, Indio, CA 92203, to be free and clear of visible evidence of infestation by termites, dry rot and/or fungi. Common areas of condominium project are not to be inspected.

**PRELIMINARY TITLE REPORT:** Escrow Holder is instructed to order a copy of the Preliminary Title Report and, if any, covenants, conditions, and restrictions. Upon receipt, forward same to Buyer who will then have 17 days from acceptance of original purchase agreement between buyer and seller, in which to approve or disapprove in writing. Absence of written notification by Buyer(s) of disapproval within specified time shall be deemed Buyer's approval of all documents and deposit of final closing funds by Buyer shall satisfy this condition in full.

**HOME WARRANTY PROTECTION PLAN:** Seller to provide a one-year Home Protection Plan, with Old Republic Home Protection for subject property including air conditioning and upgraded coverage, as per original purchase agreement and hereby authorizes Escrow Holder to pay for same, the cost of which is NOT TO EXCEED \$600.00 at the close of escrow from proceeds due Seller herein, however, Escrow Holder is authorized and instructed to deduct coverage, if any, from Buyer's account at the close of escrow to obtain the abovementioned coverage.

**BLANKET INSURANCE POLICY:** In the event that the Homeowners Association dues, includes a premium on a BLANKET INSURANCE POLICY, Escrow Holder is authorized and instructed to obtain a new CERTIFICATE of insurance in the Buyer's name at the close of this escrow, naming Buyer's new lender as mortgagee. NO PRORATION OF SAID BLANKET INSURANCE IS TO BE MADE THROUGH THIS ESCROW. Buyers understand that said BLANKET INSURANCE will not contain coverage on any PERSONAL PROPERTY and/or PERSONAL LIABILITY and it will be their sole responsibility to obtain same, if required by them.

~OR~

**FIRE INSURANCE:** Buyer herein agrees to furnish new fire insurance prior to the close of escrow with sufficient coverage on the dwelling for replacement of subject property. Buyer to deposit sufficient funds as called for by Escrow Holder to pay first year premium at close of escrow. Lender's release of loan funds shall be deemed their approval of said insurance coverage.

**PRELIMINARY CHANGE OF OWNERSHIP REPORT:** Prior to the close of escrow, Grantee shall cause to be handed to Escrow Holder a fully completed and executed "Preliminary Change of Ownership Report" pursuant to the requirements and in accordance with Section 480.3 of the Revenue and Taxation Code, State of California. If Grantee so chooses, Grantee may elect not to complete and execute said form prior to the close of escrow. In such an event, Grantee is aware that a \$20.00 charge will be assessed by the County Recorder's Office and Escrow Holder will charge the account of the Grantee accordingly. Escrow Holder's sole duty shall be the delivery of said form to the County Recorder at the time of recordation of transfer documents.

**CAL-FIRPTA DISCLOSURE:** In accordance with Section 18662 of the Revenue and Taxation Code (R&TC), a buyer may be required to withhold an amount equal to 3 1/4 percent of the sale price or an optional gain on sale withholding amount certified by the seller in the case of a disposition of California real property interest by either: 1. A seller who is an individual, trust, estate, or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of the sellers. 2. A corporate seller that has no permanent place of business in California immediately after the transfer of title to the California property. The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500). However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if any of the following apply: 1. The sale price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000). 2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a corporation with a permanent place of business in California. 3. The seller, who is an individual, trust, estate, or a corporation without a permanent place of business in California, executes a written certificate, under the penalty of perjury, of any of the following: A) The California real property being conveyed is the seller's or decedent's principal residence (within the meaning of Section 121 of the Internal Revenue Code IRC). B) The last use of the property being conveyed was use by the transferor as the transferor's principal residence (within the meaning of IRC Section 121). C) The California real property being conveyed is or will be exchanged for property of like kind (within the meaning of IRC Section 1031), but only to the extent of the amount of gain not required to be recognized for California income tax purposes under IRC Section 1031. D) The California real property has been compulsorily or involuntarily converted (within the meaning of IRC Section 1033) and that the seller intends to acquire property similar or related in service or use so as to be eligible for non recognition of gain for California income tax purposes under IRC Section 1033. E) The California real property transaction will result in a loss or net gain not required to be recognized for California income tax purposes. The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

**ESCROW HOLDER NOT LIABLE FOR DISCLOSURE OF FOREIGN SELLER:** Except as set forth herein, Escrow Holder shall not be responsible, and Escrow Holder is released from and shall have no liability, obligation or responsibility with respect to withholding of funds under Paragraph 1445 of the Internal Revenue Code of 1954, as amended, commonly known as the Foreign Investment in Real Property Tax Act ("FIRPTA") or, except as provided herein, the California FIRPTA under Paragraph 18805, et seq. of the FIRPTA or CAL-FIRPTA its requirements, a determination whether the Seller/Transferor is a foreign person, as defined, or obtaining a non-foreign affidavit or exception from withholding or other information concerning compliance or non-compliance will not be given to the parties by the Escrow Holder. The parties are advised to seek independent legal, financial and tax counsel from their respective legal, financial and tax advisors.

**GOOD FUNDS DISCLOSURE:** The Parties hereto are hereby notified that pursuant to Chapter 598, California Statutes of 1989 (AB512; INS. CODE SEC 12413.1) Effective January 1, 1990, all funds deposited in this escrow must be available for withdrawal from Escrow Holder's trust account prior to the disbursement of said funds through this escrow. Only funds deposited by electronic

ATTACHED HERETO AND MADE A PART HEREOF  
My Initials below represent my agreement and acknowledgement of the foregoing  
Page 2

BUYERS INITIALS \_\_\_\_\_

SELLERS INITIALS  \_\_\_\_\_

PLEASE INITIAL

Ticomo Valley Corporation Escrow Division

Date: June 11, 2015  
Escrow No. 2015266-LT

transfer "WIRED FUNDS" will be immediately available for disbursement of said funds through this escrow. Funds deposited in the form of Cashier's Check, Tellers Check, or Certified Check will be available for disbursement one business day after deposit. Funds deposited in any other form, including personal, corporate, partnership and mortgage or loan broker checks or drafts may cause material delays in the disbursement of funds through this escrow. To avoid delays it is recommended that all funds be deposited by Wire Transfer or Cashier's Check. Escrow Holder will not be responsible for accruals of interest or any charges resulting from complying with the disbursement restrictions imposed by State Law.

**IRS 1099 REPORTING DISCLOSURE:** Parties are made aware that we are required by law to report the total "gross" proceeds (total consideration/sales price) on all real estate sales to the IRS at closing. In addition, parties are further made aware that Escrow Holder will also be required by H.R. 638 "Home Sale Tax Fairness Act of 1992" to report to IRS the amount of real estate property taxes apportioned between the parties at close of escrow. Seller is to complete, sign and return the attached certification form to Escrow Holder, (all Sellers must sign), and this escrow may not close if this form is not received prior to closing. This is an IRS requirement, and any questions should be directed to the Treasury Department and not Escrow Holder. NOTE: Corporations are automatically exempt from IRS 1099 reporting.

**FACSIMILE / EMAIL TRANSMITTALS AND ELECTRONIC SIGNATURES:** In the event Buyer, Seller, Broker and/or Lender utilize "facsimile, email or electronic signatures" transmitted signed documents (by Telefax, Computer, etc.) Buyer, Seller, Broker and/or Lender hereby agree to accept, and instruct the Escrow Holder to rely upon, such documents as if they bore original signatures. Buyer, Seller, Broker and/or Lender agree and are aware that they are entering into the use of electronic signatures at their own risk, escrow holder is cannot be held responsible or liable for the establishing or validation of the system used in order to establish the use of electronic signatures. Buyer and Seller hereby acknowledge and agree to provide to Escrow Holder, within 72 hours of transmission, such documents bearing the original signatures. However, in the event that escrow holder does not ever receive original documents, the faxed or emailed documents shall be deemed as their consent and hereby acknowledge same. Buyer, Seller, Broker and/or Lender further acknowledge and agree that documents necessary for recording with non-original (facsimile, email or electronic) signatures will not be accepted for recording by the County Recorder, thus delaying the close of escrow.

**THE FOLLOWING PRORATIONS AND/OR ADJUSTMENTS ARE TO BE MADE AS OF: CLOSE OF ESCROW**

1. Real Property Taxes based on latest available tax bills.
2. Interest on New Encumbrances.
3. Homeowner's Association Dues.

**MEMORANDA: THE FOLLOWING ARE SHOWN AS A MATTER OF AGREEMENT BETWEEN PARTIES ONLY. ALL PARTIES ARE AWARE AND ACKNOWLEDGE THAT ESCROW HOLDER SHALL HAVE NO RESPONSIBILITY WITH REGARD TO THESE ITEMS. ESCROW HOLDER WILL TAKE NO ACTION WITH RESPECT TO THESE ITEMS EITHER BEFORE OR AFTER THE CLOSE OF ESCROW:**

**POSSESSION:** Possession and occupancy shall be delivered to the Buyer on the date of close of escrow at 6:00 pm.

**PERSONAL PROPERTY:** The following items of personal property free of liens and without warranty of condition are included in the purchase price and shall convey to Buyer at closing: *as per accepted offer*. Parties acknowledge that no monetary value is given to said items in regard to the purchase price.

Subject property is being sold as is.

**WALK-THROUGH INSPECTIONS:** Buyer to have a walk-through inspection prior to close of escrow.

**SUPPLEMENTAL TAX INFORMATION:** The tax assessor has the right to reassess the subject property after close of escrow and issue a supplemental tax bill to the Buyer, who shall be solely responsible for same. In the event the Seller receives a supplemental tax bill for prior tax year(s) before close of escrow, charge Seller's account. Supplemental tax bills for any tax period prior to close of escrow are the sole responsibility of the Seller. If any such supplemental tax bill has been issued for this current tax year, it is the Seller's responsibility to forward said bill to the new Buyer, and the Buyer's responsibility for payment of same. In such event said supplemental bill will be added to the current tax bill and prorated accordingly at close of escrow. **TAX BILLS ISSUED AFTER THE CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER.**

**INSTRUCTIONS NOT TO SUPERSEDE:** These escrow instructions are executed for the sole purpose of enabling the Escrow Holder to complete this transaction, and are not intended to amend, modify, supersede or in any way change that certain agreement entered into by the parties hereto and dated prior to these escrow instructions. Ticomo Valley Corporation, its officers and/or employees shall not be concerned with said agreement or any matters as contained therein and is responsible only for such matters as are specifically set out above in the instructions.

**DEPOSIT RECEIPT:** The Deposit Receipt dated 5-21-2015 and bankruptcy addendum to purchase agreement are hereby acknowledged to be made a part of this agreement and the Buyer and Seller agree to be bound by the terms and conditions contained thereon.

**SMOKE ALARM, CARBON MONOXIDE & WATER HEATER BRACES:** Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close of Escrow, seller shall provide buyer a written statement of compliance in accordance with State and local Law, unless seller is exempt.

**AGENCY CONFIRMATION:** The following agency relationship(s) are hereby confirmed for this transaction:

Listing Agent Aaron Juarez, with Remax Masters - Chino Hills is the agent of the Seller.  
Selling Agent Patty Prunty, with Windermere So. Cal. is the agent of the Buyer.

ATTACHED HERETO AND MADE A PART HEREOF  
*My initials below represent my agreement and acknowledgement of the foregoing*  
Page 3

BUYERS INITIALS \_\_\_\_\_ SELLERS INITIALS \_\_\_\_\_

PLEASE INITIAL





Tiçomo Valley Corporation Escrow Division

Date: June 11, 2015  
Escrow No. 2015266-LT

WE, JOINTLY AND SEVERALLY, ACKNOWLEDGE RECEIPT OF A COMPLETE COPY OF THE WITHIN ESCROW INSTRUCTIONS AND BY OUR SIGNATURES SET FORTH BELOW, ACKNOWLEDGE THAT WE HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED THEREIN, IN THEIR ENTIRETY.

Buyer's Signature:

John Vigil

Helen Vigil

The foregoing terms, provisions, conditions and instructions are hereby approved and accepted in their entirety and concurred with by me. I will hand you necessary documents called for on my part to cause title to be shown as set out herein, which you are authorized to deliver when you hold or have caused to be applied to funds set forth herein within the time as herein provided. You are authorized to pay on my behalf, my recording fees, and charges for evidence of title as called for whether or not this escrow is consummated, except those the Buyer agreed to pay. You are hereby authorized to pay bonds, assessments, taxes, and any liens of record, including prepayment penalties, if any, to show title as called for. Furthermore, in the event of any existing encumbering Lines of Credit, I am fully aware that said Lines of Credit will be immediately frozen upon escrow holder's receipt of information on same.

You are further instructed to pay documentary transfer tax on deed as required.

You are further authorized and instructed to pay commission as set forth on separate instructions made a part hereof.

Seller's Signature:

John J. Menchaca, solely in his capacity as Chapter 11 Trustee of the Bankruptcy Estate of Steven Zigmund Kallgr III, Case No. 1:13-BK-14171MB

By: John J. Menchaca, Chapter 11 Trustee

-- END OF INSTRUCTIONS --

PLEASE SIGN & RETURN

ATTACHED HERETO AND MADE A PART HEREOF  
My initials below represent my agreement and acknowledgement of the foregoing  
Page 6

BUYERS INITIALS \_\_\_\_\_

SELLERS INITIALS \_\_\_\_\_

PLEASE INITIAL

## **EXHIBIT 2**



# PACIFIC COAST TITLE COMPANY

200 West Glenoaks Blvd, #100  
Glendale, CA 91202  
Title Officer: **Eddie LasMarías**  
Title Phone: **818-662-6771**  
Title Email: **unit33@pct.com**

Issuing Policies of Commonwealth Land Title Insurance Company

ORDER NO.: **94722138-33**

Escrow/Customer Phone:

REMAX MASTERS REALTY  
475 E. BADILLO  
COVINA,  
ATTN: AARON JUAREZ

PROPERTY: 81294 AVENIDA TRES LAGUNAS, INDIO  
CA 92203

## UPDATED PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Pacific Coast Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

*The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.*

*This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.*

*The policy(s) of title insurance to be issued hereunder will be policy(s) of Commonwealth Land Title Insurance Company, a Nebraska Corporation.*

**Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.**

**Pacific Coast Title Company**

**Commonwealth Land Title Insurance  
Company**

BY   
Authorized Signatory



BY   
Randy Quirk President

ATTEST   
Michael Gravelle Secretary



# PACIFIC COAST TITLE COMPANY

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## UPDATED PRELIMINARY REPORT

EFFECTIVE DATE: **June 02, 2015, 7:30am**

The form of policy or policies of title insurance contemplated by this report is:

**ALTA Homeowner's Policy of Title Insurance for a One-to-Four Family Residence (02/03/10)**

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

**A FEE**

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS **VESTED IN:**

**STEVEN Z. KALLER AND JANET E. KALLER, HUSBAND AND WIFE AS JOINT TENANTS**

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

**LEGAL DESCRIPTION**

**EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 149 OF TRACT 32390-1, AS SHOWN BY MAP ON FILE IN BOOK 388 PAGES 45 THROUGH 56 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

**AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:**

A. **Property Taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2015-2016.

B. **Property Taxes** for the fiscal year shown below are PAID. For proration purposes, the amounts are:

APN:	691-410-058
Fiscal Year:	2014-2015
Code Area:	007-104
1st Installment:	\$2,807.74 PAID
2nd Installment:	\$2,807.74 PAID
Land:	\$95,000.00
Improvements:	\$287,000.00
Exemption:	\$0.00 HOMEOWNERS

C. **The herein described property lies within the boundaries of a Mello-Roos Community Facilities District (CFD).** This property, along with all other parcels in the CFD is liable for an annual special tax. This special tax is included with and payable with the general property taxes of the city of INDIO, County of RIVERSIDE. Further information may be obtained by contacting the county tax collector.

Failure to pay said taxes prior to the delinquency date may result in the above assessment being removed from the County Tax Roll and subjected to Accelerated Judicial Bond Foreclosure.

D. THE LIEN OF SPECIAL TAX FOR THE FOLLOWING MUNICIPAL IMPROVEMENT BOND, WHICH TAX IS COLLECTED WITH THE COUNTY TAXES.  
DISTRICT: CITY OF INDIO, 90-1

THE LAND LIES WITHIN THE BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2004-1, AS DISCLOSED BY A MAP FILED IN BOOK 62, PAGE 49 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AND RECORDED APRIL 26, 2005 AS INSTRUMENT NO. 2005-0325880 OF OFFICIAL RECORDS.

A DOCUMENT ENTITLED "AMENDMENT NO. 5 TO NOTICE OF SPECIAL TAX LIEN" RECORDED JUNE 30, 2005 AS INSTRUMENT NO. 2005-520770 OF OFFICIAL RECORDS.

E. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation Code of the State of California.

1. **Water rights, claims or title to water**, whether or not disclosed by the Public Records.

2. **A DOCUMENT** ENTITLED "DEVELOPMENT AGREEMENT", SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED MARCH 25, 1996 AS INSTRUMENT NO. 96-105579 OF OFFICIAL RECORDS.

REFERENCE IS HEREBY MADE TO SAID DOCUMENT FOR FULL PARTICULARS.

AN ASSIGNMENT OF DEVELOPMENT AGREEMENT RECORDED SEPTEMBER 26, 2003 AS INSTRUMENT NO. 2003-757691 OF OFFICIAL RECORDS.

3. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to:	BERMUDA DUNES AIRPORT CORPORATION, A CALIFORNIA CORPORATION
Purpose:	AVIGATION EASEMENT
Recorded:	September 25, 2003 AS INSTRUMENT NO. 2003-751334 OF OFFICIAL RECORDS
Affects:	THE LAND

4. THE EFFECT OF A RECITAL ON SAID MAP STIPULATING THE FOLLOWING:

WE HEREBY STATE THAT WE ARE THE OWNERS OF THE LAND INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSON WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID LAND; THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

WE HEREBY RETAIN LOT 381 FOR LANDSCAPE, OPEN SPACE, UTILITY AND DRAINAGE PURPOSES FOR THE SOLE BENEFIT OR OURSELVES, OUR SUCCESSORS AND ASSIGNEES.

WE HEREBY RETAIN EASEMENTS INDICATED AS "PRIVATE DRAINAGE EASEMENT" OVER LOTS 6, 17, 23, 35, 36, 162, 187, 215 AND 319 FOR THE SOLE BENEFIT OF OURSELVES, OUR SUCCESSORS, ASSIGNEES AND LOT OWNERS WITHIN THIS TRACT.

WE HEREBY GRANT IN FEE SIMPLE TO THE CITY OF INDIO LOT 382 FOR WELL SITE PURPOSES AS SHOWN HEREON.

WE HEREBY DEDICATE TO PUBLIC USE EASEMENTS OVER THE PRIVATE STREETS FOR PUBLIC UTILITY PURPOSES WITH THE RIGHT OF INGRESS AND EGRESS FOR SERVICE AND EMERGENCY VEHICLES AND PERSONNEL.

WE HEREBY DEDICATE TO PUBLIC USE THE EASEMENTS SHOWN AS "PUBLIC UTILITY EASEMENT" FOR THE USE AND BENEFIT OF THE UTILITY COMPANIES, WHICH ARE AUTHORIZED TO SERVE IN SAID SUBDIVISION.

WE HEREBY OFFER FOR DEDICATION TO THE IMPERIAL IRRIGATION DISTRICT, AN EASEMENT OVER ALL PRIVATE STREETS SHOWN ON THIS MAP AND AN ADDITION TEN (10) FEET IN WIDTH ON BOTH SIDES OF THE PRIVATE STREET, AS SHOWN ON THIS MAP, FOR THE EXCAVATION, LAYING, CONSTRUCTION, INSTALLATION, MAINTENANCE, OPERATION, INSPECTION, REPAIR, REPLACEMENT AND REMOVAL OF ELECTRICAL LINES, CABLES, DUCTS, SUPPORTS, FIXTURES, FACILITIES AND APPURTENANCES, WITH THE RIGHT OF INGRESS AND EGRESS OVER AND WITHIN SAME FOR MAINTENANCE, OPERATION AND EMERGENCY VEHICLES.

5. ANY AND ALL OFFERS OF DEDICATION, CONDITIONS, RESTRICTIONS, EASEMENTS, FENCELINE/BOUNDARY DISCREPANCIES, NOTES AND/OR PROVISIONS SHOWN OR DISCLOSED BY THE FILED OR RECORDED MAP REFERRED TO IN THE LEGAL DESCRIPTION.

6. **Covenants, conditions and restrictions** as set forth in the document, but omitting, except to the extent that said covenant or restriction is controlled or permitted by any applicable federal or state law, any covenants or restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, medical condition, national origin, source of income, or ancestry.

Recorded: December 09, 2003 AS INSTRUMENT NO. 2003-961274 AND THAT CERTAIN SUPPLEMENTAL DECLARATION RECORDED ON MARCH 31, 2004 AS INSTRUMENT NO. 2004-227452, BOTH OF OFFICIAL RECORDS

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

The provisions of said covenants, conditions and restrictions were extended to include the herein described land by an instrument

Recorded: September 07, 2005 AS INSTRUMENT NO. 2005-737586 OF OFFICIAL RECORDS

7. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document;
- Granted to: VERIZON CALIFORNIA INC., A CORPORATION  
Purpose: CONSTRUCTING, USING, MAINTAINING, OPERATING, ALTERING, ADDING TO, REPAIRING, REPLACING, RECONSTRUCTING, INSPECTING AND/OR REMOVING ITS FACILITIES  
Recorded: December 20, 2005 AS INSTRUMENT NO. 2005-1048758 OF OFFICIAL RECORDS  
Affects: A PORTION OF SAID LAND
8. **A DOCUMENT** ENTITLED "NOTICE OF NON-ADVERSARIAL PROCEDURE UNDER CIVIL CODE SECTION 912(F)", SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED FEBRUARY 03, 2006 AS INSTRUMENT NO. 2006-084857 OF OFFICIAL RECORDS.
- REFERENCE IS HEREBY MADE TO SAID DOCUMENT FOR FULL PARTICULARS.
9. ANY RESERVATIONS, EXCEPTIONS, EASEMENTS, CONDITIONS, COVENANTS OR SIMILAR MATTERS, NOT YET APPEARING IN THE PUBLIC RECORD BUT ARISING FROM THE GRANT DEED IN THE CONTEMPLATED TRANSACTION.
10. **A DOCUMENT** ENTITLED "MEMORANDUM OF AGREEMENT", SUBJECT TO ALL THE TERMS, PROVISIONS AND CONDITIONS THEREIN CONTAINED, RECORDED MAY 31, 2006 AS INSTRUMENT NO. 2006-0394872 OF OFFICIAL RECORDS.
- REFERENCE IS HEREBY MADE TO SAID DOCUMENT FOR FULL PARTICULARS.
11. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby
- Amount: \$180,000.00  
Dated: 05/16/2006  
Trustor: STEVEN Z. KALLER AND JANET E. KALLER, HUSBAND AND WIFE  
Trustee: TJ BLINSTRUBAS  
Beneficiary: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., (MERS) SOLELY AS NOMINEE FOR LENDER  
Lender: PULTE MORTGAGE LLC DOING BUSINESS AS DEL WEBB HOME FINANCE  
Recorded: May 31, 2006 AS INSTRUMENT NO. 2006-0394871 OF OFFICIAL RECORDS
- An assignment of the beneficial interest under said deed of trust which names:
- Assignee: NATIONSTAR MORTGAGE LLC  
Recorded: July 15, 2013 AS INSTRUMENT NO. 2013-0339679 OF OFFICIAL RECORDS
12. **NOTE:** To avoid delays at the time of closing, it will be necessary that a written statement from the Homeowner's Association that all liens, charges and/or assessments levied on said land have been paid. Said statement should include all amounts due up to and including the date of closing.
13. **Covenants, conditions and restrictions and other instruments recorded in the public records purporting to impose a transfer fee or conveyance fee** payable upon the conveyance of an interest in real property or payable for the right to make or accept such a transfer, and any and all fees, liens or charges, whether recorded or unrecorded, if any, currently due or payable or that will become due or payable, and any other rights deriving therefrom, that are assessed pursuant thereto.

14. **This company will require a statement of information** from the parties named below in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. After review of the requested Statement(s) of Information the Company may have additional requirements before the issuance of any policy of title insurance.

Parties: ALL PARTIES

(Note: The statement of information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed statement of information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the statement of information is essential and will be kept strictly confidential to this file.)

**FAILURE TO PROVIDE THIS STATEMENT OF INFORMATION IN A TIMELY MANNER MAY DELAY THE CLOSING OF THIS TRANSACTION.**

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**END OF ITEMS**

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## **EXHIBIT 3**

B6A (Official Form 6A) (12/07)

In re Steven Zigmund Kaller, III Case No. \_\_\_\_\_  
 Debtor

**SCHEDULE A - REAL PROPERTY**

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether 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 holds no interest in real property, write "None" under "Description and Location of Property."

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

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim." If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
<b>Rental Property</b> 1401 Winshore Way Oxnard, California 93035	Joint Ownership Interest	J	406,767.00	445,084.00
Based upon comparable sales in the neighborhood				
<b>Residence</b> 81294 Avenida Tres Lagunas Indio, California 92203	Joint Ownership Interest	J	350,000.00	70,906.00
Based upon comparable sales in the neighborhood				
<b>Office Condo</b> Location: 30423 Canwood St #227 Agoura Hills, California 91301	Joint Ownership Interest	J	185,000.00	220,663.85
Based upon comparable sales in the neighborhood				

Sub-Total > **941,767.00** (Total of this page)  
 Total > **941,767.00**  
 (Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

# **EXHIBIT 4**

**Kaller Claims Reconciliation [Bar Date 11/1/13]**

<b>POC #</b>	<b>Name</b>	<b>Status</b>	<b>Amount</b>	<b>Notes</b>
1	Toyota	Secured	18629	Prius
2	OneWest	Secured	1272218	Winshore 2nd
3	Ocwen	Secured	317602	Winshore 1st
4	Ally Fin.	Secured	23469	Buick Enclave?
5	Fia Card	<i>Unsecured</i>	2356	
6	JPMC	Secured	4596	Smart Car
7	IRS	<i>Priority</i>	3143	
8	BMW	<i>Unsecured</i>	4727	
9	LACTC	<i>Priority</i>	108	
10	LACTC	Secured	1845	
11	Beutel	<i>Unsecured</i>	554196	
12	Portfolio Rec.	<i>Unsecured</i>	792	
13	Porsche	<i>Unsecured</i>	27224	Deficiency
14	Altair	<i>Unsecured</i>	9734	
15	Nationstar	Secured	66240	Indio 1st
16	BofA	Secured	117886	Paid; \$44,083 Net ECF # 78
17	Malaga Bank	Secured	222405	Canwood 1st
18	Shulman	<i>Unsecured</i>	1560573	
19	FTB	<i>Priority</i>	1142	
20	Santander	<i>Boat repo?</i>	<del>15098</del>	Late; Boat Deficiency Unknown
N/A	Target	<i>Sch F; No POC</i>	6154	
N/A	Turner Law	<i>Sch F; No POC</i>	9075	
N/A	3x BofA Biz Debts	<i>Sch F; No POC</i>	20887	Paid by biz?

## 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:

22287 Mulholland Hwy., # 318  
Calabasas, CA 91302

A true and correct copy of the foregoing document entitled: **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)* 06/16/2015, 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:

Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On *(date)* 06/16/2015, 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.

Judge Barash, US Bankruptcy Court, 21041 Burbank Blvd., Suite 342 Woodland Hills, CA 91367

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)* \_\_\_\_\_, 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.

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.

06/16/2015  
*Date*

Lewis R. Landau  
*Printed Name*

/s/ Lewis R. Landau  
*Signature*

**ADDITIONAL SERVICE INFORMATION (if needed):**

## NEF Service List (category I):

Paul A Beck on behalf of Creditor Amanda Shulman, Amanda Shulman Fine Art LLC, and Amanda Shulman Fine Art, Inc. pab@pablaw.org  
Michael Daniels on behalf of Creditor Nationstar Mortgage LLC BkECFnotifications@nationstarmail.com  
Dolores Garcia on behalf of Creditor PRA Receivables Management, LLC dgarcia@portfoliorecovery.com  
Nichole Glowin on behalf of Creditor Nationstar Mortgage LLC nglowin@wrightlegal.net, bkgroup@wrightlegal.net  
Andrew A Goodman on behalf of Debtor Steven Zigmund Kaller, III agoodman@greenbass.com, ksopky@greenbass.com  
Andrew A Goodman on behalf of Defendant Steven Kaller agoodman@greenbass.com, ksopky@greenbass.com  
Andrew A Goodman on behalf of Defendant Steven Zigmund Kaller, III agoodman@greenbass.com, ksopky@greenbass.com  
Raffi Khatchadourian on behalf of Creditor Bank of America, N.A. raffi@hemar-rousso.com  
Raffi Khatchadourian on behalf of Interested Party Courtesy NEF raffi@hemar-rousso.com  
Yi S Kim on behalf of Debtor Steven Zigmund Kaller, III ykim@greenbass.com, ksopky@greenbass.com  
Leslie M Klott on behalf of Creditor OCWEN LOAN SERVICING, LLC bankruptcy@zievelaw.com  
Lewis R Landau on behalf of Interested Party Courtesy NEF Lew@Landaunet.com  
Lewis R Landau on behalf of Trustee John J Menchaca (TR) Lew@Landaunet.com  
John J Menchaca (TR) jmenchaca@menchacacpa.com, ca87@ecfbis.com;igaeta@menchacacpa.com  
Stacey A Miller on behalf of Creditor Porsche Financial Services, Inc. smiller@tharpe-howell.com  
S Margaux Ross on behalf of U.S. Trustee United States Trustee (SV) margaux.ross@usdoj.gov, margauxla@yahoo.com  
Justin Santarosa on behalf of Trustee John J Menchaca (TR) jsantarosa@hrbc.com  
Mark M Sharf on behalf of Interested Party Todd Beutel mark@forbankruptcy.com, msharf00@gmail.com  
Mark M Sharf on behalf of Plaintiff Todd Beutel mark@forbankruptcy.com, msharf00@gmail.com  
Ramesh Singh on behalf of Interested Party Recovery Management Systems Corporation claims@recoverycorp.com  
Glenn M Solomon on behalf of Attorney Glenn Michael Solomon gmsolomonlaw@aol.com  
United States Trustee (SV) ustpreion16.wh.ecf@usdoj.gov

Court Matrix 6/16/15

Stricken names are NEF parties;  
 duplicates, represented or  
 superseded entities or court  
 addresses

Main Document Page 59 of 60

~~Greenberg & Bass LLP  
 16000 Ventura Blvd #1000  
 Encino, CA 91436-2762~~

~~Horgan, Rosen, Beckham & Coren, LLP  
 23975 Park Sorrento, Ste 200  
 Calabasas, CA 91302-4011~~

~~(p) NATIONSTAR MORTGAGE LLC  
 PO BOX 619096  
 DALLAS TX 75261-9096~~

~~OCWEN LOAN SERVICING, LLC  
 c/o Law Offices of Les Zieve  
 30 Corporate Park, Suite 450  
 Irvine, CA 92606-3401~~

~~PRA Receivables Management, LLC  
 POB 41067  
 Norfolk, VA 23541-1067~~

~~Recovery Management Systems Corporation  
 25 SE 2nd Avenue, Suite 1120  
 Miami, FL 33131-1605~~

~~United States Trustee (SV)  
 915 Wilshire Blvd, Suite 1850  
 Los Angeles, CA 90017-3560~~

~~San Fernando Valley Division  
 21041 Burbank Blvd,  
 Woodland Hills, CA 91367-6606~~

~~ALTAIR OH XIII, LLC  
 C O WEINSTEIN AND RILEY, PS  
 2001 WESTERN AVENUE, STE 400  
 SEATTLE, WA 98121-3132~~

~~AMANDA SHULMAN  
 10960 WILSHIRE BL., 7TH FLR  
 LOS ANGELES, CA 90024-3710~~

~~Ally Financial  
 PO Box 130424  
 Roseville, MN 55113-0004~~

~~Amanda Shulman  
 c/o Gianelli & Morris Law Corp.  
 550 South Hope St Ste 1645  
 Los Angeles, CA 90071-2650~~

~~Andrew Goodman  
 Greenberg & Bass  
 16000 Ventura Boulevard  
 Suite 1000  
 Encino, CA 91436-2762~~

~~BMW BANK OF NORTH AMERICA  
 PO BOX 23356  
 PITTSBURGH PA 15222-6356~~

~~BMW Financial  
 PO Box 31046  
 Tampa, FL 33631-3046~~

~~Bank of America  
 P.O. Box 15019  
 Wilmington, DE 19886-5019~~

~~Bank of America  
 PO Box 15019  
 Willington, DE 19886-5019~~

~~Bank of America  
 PO Box 15796  
 Willington, DE 19886-5796~~

~~Bank of America  
 PO Box 5170  
 Simi Valley, CA 93062-5170~~

~~Bank of America, N.A.  
 Hemar, Rousso & Heald, LLP  
 c/o Raffi Khatchadourian, Esq.  
 15910 Ventura Boulevard, 12th Floor  
 Encino, CA 91436-2829~~

~~CAPITAL ONE, N.A.  
 PO Box 12907  
 Norfolk, VA 23541-0907~~

~~Chase Auto Finance  
 1820 E Sky Harbor Circle  
 Phoenix, AZ 85034-4810~~

~~FIA CARD SERVICES, N.A.  
 P O Box 982284  
 El Paso, TX 79998-2284~~

~~FRANCHISE TAX BOARD  
 BANKRUPTCY SECTION MS A340  
 PO BOX 2952  
 SACRAMENTO CA 95812-2952~~

~~Geroge Knopfler  
 111 Universal Hollywood Drive  
 22nd Floor  
 Universal City, CA 91608-1054~~

~~(p) INTERNAL REVENUE SERVICE  
 CENTRALIZED INSOLVENCY OPERATIONS  
 PO BOX 7346  
 PHILADELPHIA PA 19101-7346~~

~~IndyMac Mortgage  
 PO Box 7886  
 Phoenix, AZ 85062~~

~~JPMorgan Chase Bank, N.A.  
 POB 29505 AZ1-1191  
 phoenix az 85038-9505~~

~~Janet E. Kaller  
 81294 Avenida Tres Lagunas  
 Indio, CA 92203-7546~~

Kaller Management, Inc.  
30423 Canwood Street  
Suite 227  
Agoura Hills, CA 91301-4367

Los Angeles County Treasurer and Tax Collect  
PO Box 54110, Los Angeles, CA 90054-0110

Malaga Bank, FSB  
2514 Via Tejon  
Palos Verdes Estates, CA 90274-1311

Ocwen Loan Servicing, LLC  
Attn: Bankruptcy Department  
P.O. BOX 24605  
West Palm Beach FL 33416-4605

One West Bank IndyMac Mortgage  
PO Box 78826  
Phoenix, AZ 85062-8826

OneWest Bank, FSB  
PO Box 829009  
Dallas, TX 75382-9009

Porsche Financial  
4343 Commerce Court  
Ste 300  
Lisle, IL 60532-3616

Porsche Financial  
4343 Commerce Court  
Lisle, IA 60532-3616

Porsche Financial Services, Inc.  
900 Hammond Drive, Suite 1000  
Atlanta, GA 30328-8187

(p) PORTFOLIO RECOVERY ASSOCIATES LLC  
PO BOX 41067  
NORFOLK VA 23541-1067

Recovery Management Systems Corporation  
25 S.E. 2nd Avenue, Suite 1120  
Miami, FL 33131-1605

Santander  
PO Box 660633  
Dallas, TX 75266-0633

Santander Consumer USA  
Po Box 560284  
Dallas, TX 75356-0284

Steven Zigmund Kaller, III  
30423 Canwood St #227  
Agoura Hills, CA 91301-4367

Sunrise Window Cleaners, Inc.  
10834 Burbank Boulevard  
201  
North Hollywood, CA 91601-2502

Target  
PO Box 660170  
Dallas, TX 75266-0170

Todd Beutel  
c/o George Knopfler  
111 Universal Hollywood Drive  
22nd Floor  
Los Angeles, CA 91608-1054

Toyota Financial Services  
PO Box 4102  
Carol Stream, IL 60197-4102

Toyota Motor Credit Corporation (TMCC)  
PO BOX 8026  
Cedar Rapids, Iowa 52408-8026

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5950 Canoga Ave, #400  
Woodland Hills, CA 91367-5037

Yi S Kim  
16000 Ventura Blvd, Ste 1000  
Encino, CA 91436-2762

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).