

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY			
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andy.kong@arendox.com				
☐ Individual appearing without attorney ☐ General Bankruptcy Counsel for Chapter 7 Trustee, Howard M. Ehrenberg				
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION				
In re:	CASE NO.: 2:11-bk-54945-ER			
	CHAPTER: 7			
FRANK J. SMITH,				
	NOTICE OF SALE OF ESTATE PROPERTY			
Debtor(s).				
Sale Date: November 6, 2013	Time: 11:00 am			
Location: Courtroom 1568, U.S. Bankruptcy Court, 255 E	ast Temple Street, Los Angeles, CA 90012			
Location. Courticom 1308, 0.3. Bankruptcy Court, 233 East Temple Street, Los Angeles, CA 90012				
Type of Sale: ☐ Private Last date to file objections: October 23, 2013				
Description of property to be sold: 4832, 4838, 4848, 485 Irwindale, California which consists of approximately 37,894	0, 4858, 4900, 4906 & 4910 Azusa Canyon Road in the city of			
Acres (300,492 square feet) of land	square reet of industrial buildings of approximately 0.05			
Terms and conditions of sale: Free and clear of liens purs	· · · · · · · · · · · · · · · · · · ·			
to overbids. Total purchase price is \$5,500,000 subject to o	verbias.			
Proposed sale price: \$5,500,000				

property is t	o be sold free a	and clear of liens or other interests, list date, time a	nd location of hearing:
Property is to I	be sold free and	clear of liens or other interests. Qualified bidders may	bid at the auction sale on:
	Date:	November 6, 2013	
	Time:	11:00 a.m.	
	Location:	Courtroom 1568, U.S. Bankruptcy Court	
		255 East Temple Street, Los Angeles, CA 90012	
ontact perso	n for potential l	bidders (<i>include name, address, telephone, fax an</i> c	√or email address):
ontact perso	·	bidders (<i>include name, address, telephone, fax and</i> and/or Mark Shaffer, Realtor	√or email address):
ontact perso	·	•	//or email address):
ontact perso	Lynn Knox : CBRE	•	 //or email address):
ontact perso	Lynn Knox : CBRE 400 S. Hope	and/or Mark Shaffer, Realtor	//or email address):
ontact perso	Lynn Knox : CBRE 400 S. Hope	and/or Mark Shaffer, Realtor e St., 25 th Floor s, CA 90071	//or email address):
ontact perso	Lynn Knox : CBRE 400 S. Hope Los Angele	and/or Mark Shaffer, Realtor e St., 25 th Floor s, CA 90071	//or email address):

December 2012 Page 2 F 6004-2.NOTICE.SALE

EXHIBIT 1

Bidding Procedures

Howard M. Ehrenberg, the duly appointed chapter 7 trustee (the "<u>Seller</u>") of the Frank J. Smith bankruptcy estate (the "<u>Estate</u>") (Bankruptcy Case No. 2:11-bk-54945-ER, has currently entered into an agreement for the purchase and sale of that certain Property (as hereinafter defined) to Shubin Nadal Realty Investors, LLC ("<u>Buyer</u>") (the "<u>Sale Agreement</u>"). Seller will seek entry of an order by the United States Bankruptcy Court (the "<u>Bankruptcy Court</u>"), among other things, authorizing and approving the Sale to Buyer or to a Qualified Overbidder (as hereinafter defined) which the Bankruptcy Court may determine to have made the highest or otherwise best offer to purchase the Property (the "<u>Successful Over-Bidder(s)</u>"). All defined terms contained herein shall have the meaning ascribed to them in the Sale Agreement unless otherwise defined.

Set forth below are the bidding procedures (the "<u>Bidding Procedures</u>") to be employed with respect to the prospective sale (the "<u>Sale</u>") by Seller of the following real and personal properties:

- i. The Land and all of Estate's interest in all rights, privileges, easements and appurtenances benefiting the Land and/or the Improvements, including, without limitation, the Estate's interest, if any, in all mineral and water rights and all easements, rights-of-way and other appurtenances used or connected with the beneficial use or enjoyment of the Land and/or the Improvements (the Land, the Improvements and all such rights, privileges, easements and appurtenances are sometimes collectively hereinafter referred to as the "Real Property");
- ii. The Buildings, associated parking and landscaped areas and all other improvements located on the Land (the "Improvements");
- iii. All leases, licenses and occupancy agreements covering the Land and Improvements, which are described on the schedule of leases attached to the Sale Agreement as Exhibit H (said leases and agreements are hereinafter referred to collectively as the "Leases");
 - iv. To the extent assignable, the Approved Contracts;
- v. All personal property, equipment, supplies and fixtures (collectively, the "Personal Property") owned by the Estate, used or useful in the operation of the Real Property and which is located at the Property; and
- vi. To the extent assignable by the Estate without material cost to the Estate, any warranties, guaranties, licenses, permits, entitlements, governmental approvals, certificates of occupancy and any other intangible personal property which benefit the Real Property, the Improvements, and/or the Personal Property (the "Intangible Personal Property"). The Real Property, the Improvements, the Personal Property, the Approved Contracts, the Estate's interest as lessor under the Leases and the Intangible Personal Property are sometimes collectively hereinafter referred to as the "Property."

The Bidding Process

Seller shall (i) determine whether any person is a Qualified Overbidder, (ii) coordinate the efforts of Qualified Overbidders in conducting their respective due diligence investigations regarding the Property, (iii) receive offers from Qualified Overbidders, and (iv) negotiate any offer made to purchase the Property (collectively, the "<u>Bidding Process</u>"). Any person who wishes to participate in the Bidding Process must be a Qualified Overbidder. Neither Seller nor his representatives shall be obligated to furnish any information of any kind whatsoever related

to the Property to any person who is not a Qualified Overbidder. Except as otherwise provided in the Sale Agreement, Seller shall have the right to adopt such other rules for the Bidding Process which, in his reasonable judgment, will better promote the goals of the Bidding Process and which are not inconsistent with any of the other provisions hereof, Title 11 of the United States Code, or of any Bankruptcy Court order.

Participation-Bid Requirements

Except for Buyer and unless otherwise ordered by the Bankruptcy Court for cause shown, to participate in the Bidding Process, each person (a "<u>Potential Bidder</u>") must deliver to Seller the following documents (the "<u>Required Bid Documents</u>") at least three (3) business days prior to the Auction (defined below), unless Seller waives in writing any/all of these requirements:

- (a) Current financial statements or other financial information of the Potential Bidder, or, if the Potential Bidder is an entity formed for the purpose of acquiring the Property, current financial statements or other financial information of the equity holder(s) of the Potential Bidder, or such other form of financial disclosure acceptable to Seller and his advisors, demonstrating such Potential Bidder's ability to close the proposed transaction;
- (b) An executed copy of an Agreement of Purchase and Sale and Joint Escrow Instructions: (i) acceptable in form to Seller (the "Overbid Purchase Agreement"), (ii) clearly marked to show any changes from the terms of the Sale Agreement, or (iii) on the same or more favorable terms as the Sale Agreement; provided, however, the purchase price in such proposed Overbid Purchase Agreement must be at least \$5,625,000.00;
- (c) A good faith deposit (the "<u>Good Faith Deposit</u>") in the form of a certified check (or other form acceptable to Seller in his sole discretion) payable to the order of Seller (or such other party as Seller may determine to hold such funds in escrow) in an amount equal to \$100,000.00; and;
- (d) Written evidence of a commitment for financing or other evidence of ability to consummate the proposed transaction satisfactory to Seller in his sole discretion. Seller will consider a bid only if the bid is on terms that are not conditioned on obtaining financing, due diligence or "material adverse change" contingencies.

A Qualified Overbidder is a Potential Bidder that delivers the documents described in subparagraphs (a), (b), (c), and (d) above, whose financial information demonstrates the financial capability of the Potential Bidder to consummate the Sale, and that Seller determines is reasonably likely (based on the availability of financing, experience and other considerations) to submit a *bona fide* offer and to be able to consummate the Sale if selected as the Successful Over-Bidder(s).

Within two (2) business days after a Potential Bidder delivers all of the materials required by subparagraphs (a), (b), (c), and (d) above, Seller shall determine, and shall notify the Potential Bidder in writing, whether the Potential Bidder is a Qualified Overbidder.

The Buyer's offer set forth in the Sale Agreement and any overbid by Buyer is also a "Qualified Bid" herein.

Bid Protection

Subject to Bankruptcy Court approval, Buyer shall be entitled to be paid a \$100,000 break-up fee ("Break-Up Fee") if Seller closes a sale of all or substantially all of the Property to any person (including Buyer) on terms better than the Sale Agreement (the "Alternative Transaction") and Buyer was not in default of any of its obligations under the Sale Agreement. Payment of the Break-Up Fee shall be subject to the closing of the Alternative Transaction and paid from the sale proceeds within five (5) business days of the closing of the Alternative Transaction.

Due Diligence

Seller may afford each Qualified Overbidder reasonable due diligence access to the Property. Seller will designate an appropriate representative to coordinate all reasonable requests for additional information and due diligence access for such bidders. Seller shall not be obligated to furnish any due diligence information after the Bid Deadline (as defined herein). Neither Seller nor any of his representatives are obligated to furnish any information relating to the Property to any person except to a Qualified Overbidder who provides the Required Bid Documents. Potential Bidders are advised to exercise their own discretion before relying on any information regarding the Property provided by anyone other than Seller or his representatives.

Bid Deadline

A Qualified Overbidder that desires to make a bid shall deliver a written copy of his/her/its bid to Seller's counsel, Andy Kong, Esq. of Arent Fox LLP at 555 West Fifth Street, 48th Floor, Los Angeles, California 90013 (fax: 213-629-7401; email: andy.kong@arentfox.com) on or before 3:00 p.m. PST on November 1, 2013. Seller may extend such deadline in his sole discretion (such deadline, including such extension, the "Bid Deadline"). In addition to the above-referenced extension, Seller may extend the Bid Deadline once or successively, but he is not obligated to do so.

"As Is, Where Is"

The Sale of the Property shall be on an "As Is, Where Is" basis and without representations or warranties of any kind, nature, or description by Seller, his agents or the Estate except to the extent set forth in the Sale Agreement of Buyer or Overbid Purchase Agreement of the Successful Over-Bidder as accepted by Seller and approved by the Bankruptcy Court. Except as otherwise provided in the Sale Agreement or an Overbid Purchase Agreement acceptable to Seller, and approved by the Bankruptcy Court, all Seller's and the Estate's rights, title and interests in and to the Property shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively, the "Interests") in accordance with 11 U.S.C. §§ 363 and 365, with such Interests to attach to the net proceeds of the Sale of the Property.

Each Potential Bidder shall be deemed to acknowledge and represent he/she/it has had an opportunity to inspect and examine the Property and to conduct any and all due diligence regarding the Property prior to making his/her/its offer; that he/she/it has relied solely upon his/her/its own independent review, investigation and/or inspection of any documents and/or assets in making his/her/its bid; and that he/she/it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Property, or the completeness of any information provided in connection therewith or the Auction (as defined below), except as

expressly stated in these Bidding Procedures or, as to the Buyer or a Successful Over-Bidder, if any, the Sale Agreement or the Overbid Purchase Agreement.

Sale Hearing and Auction

After all Qualified Bids have been received, Seller shall conduct an auction (the "Auction") for the Property. Such Auction shall take place at the United States Bankruptcy Court, 255 East Temple Street, Courtroom 1568, Los Angeles, CA 90012 on November 6, 2013 at 11:00 a.m., PST. Only a Qualified Overbidder who has submitted a Qualified Bid will be eligible to participate at the Auction. At such Auction, Buyer and Qualified Overbidders will be permitted to increase their bids. Based upon the terms of the Qualified Bids received, the level of interest expressed as to the Property and such other information as Seller determines is relevant, Seller, after reasonable efforts to consult with interested parties, shall conduct an Auction in the manner designed to result in the highest or otherwise best offer for the Property including, but not limited to (i) setting subsequent bid amounts in \$25,000.00 increments or such other amounts in the Seller's sole discretion or approved by the Bankruptcy Court provided however, that the initial overbid by a Qualified Bidder must include the amount of the Break-Up Fee (\$100,000.00) in addition to the \$25,000 (in other words, the initial overbid must be \$5,625,000.00); (iii) providing for such additional procedural rules that Seller determines to be reasonable under the circumstances for conducting the Auction; and (iii) Buyer shall be entitled to credit bid its Break-Up fee to the extent it submits a Successful Over-Bid.

Upon conclusion of the Auction, Seller shall (i) review each Qualified Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale and (ii) identify the highest and otherwise best offer (the "Successful Over-Bid"). At the Sale Hearing, Seller shall present to the Bankruptcy Court for approval, the Successful Over-Bid and any backup bids. Subject to Bankruptcy Court approval, Seller may adopt rules for the Bidding Process that are not inconsistent with any of the provisions of the Bankruptcy Code, Bankruptcy Rules, any Bankruptcy Court order, the Sale Agreement, or these Bidding Procedures.

The sale hearing (the "Sale Hearing") shall take place following the Auction on November 6, 2013 at 11:00 a.m., PST at the Bankruptcy Court. The Sale Hearing may be adjourned or rescheduled without notice by an announcement of the adjourned date of the Sale Hearing. At such Sale Hearing, Seller shall present the Successful Over-Bid to the Bankruptcy Court for approval. Following the Sale Hearing approving the Sale of the Property to a Successful Over-Bidder, if such Successful Over-Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Over-Bidder, (a) he/she/it will forfeit his/her/its Good Faith Deposit to Seller and Seller may pursue any and all of his options at law and in equity with respect to such breach and (b) the next highest or otherwise best Qualified Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Over-Bid and Seller shall be authorized to effectuate such sale without further order of the Bankruptcy Court or (c) Seller may reschedule for a later date and time, another auction for the Property.

Acceptance of Qualified Bids

Seller presently intends to sell the Property to Buyer or the highest or otherwise best Qualified Overbidder. Seller's presentation to the Bankruptcy Court for approval of a particular Qualified Bid does not constitute Seller's acceptance of such bid. Seller will be deemed to have accepted a bid only when the bid has been approved by an order of the Bankruptcy Court.

Return of Good Faith Deposit

Within five (5) business days after the entry by the Bankruptcy Court approving the Sale of the Property to the Successful Over-Bidder, any Good Faith Deposits submitted by Qualified Bidders shall be returned, along with interest accrued thereon, except for the Good Faith Deposit of the Successful Over-Bidder (and except with respect to any Qualified Bidder willing to serve as a back-up bidder), in which case the Good Faith Deposit will be applied to the purchase price for the Property, and except with respect to any bidder that forfeits his/her/its Good Faith Deposit. In the event a back-up bidder is selected and agrees to be designated as such, that Qualified Bidder's Good Faith Deposit shall continue to be held until the time the sale to the Successful Over-Bidder closes or the back-up bidder becomes the Successful Over-Bidder, at which time the Good Faith Deposit will be applied to the final purchase price.

Modifications

Except as otherwise provided in the Sale Agreement, Seller may (a) determine, in his business judgment, which Qualified Bid, if any, is the highest or otherwise best offer; and (b) reject at any time before the entry of an order of the Bankruptcy Court approving a Qualified Bid, any bid that, in Seller's reasonable discretion is (i) inadequate or insufficient, (ii) not in conformity with the conditions of sale, or (iii) contrary to the best interests of Seller, the Estate and/or its creditors. Except as otherwise provided in the Sale Agreement, at or before the Sale Hearing, Seller may impose such other terms and conditions as he may determine to be in the best interest of Estate, its creditors and/or other parties in interest, provided that any such other terms or conditions are approved by the Bankruptcy Court.

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: Arent Fox LLP, Gas Company Tower, 555 West Fifth Street, 48th Floor, Los Angeles, CA 90013.

		fy): NOTICE OF SALE OF ESTATE PROPERTY will be and manner required by LBR 5005-2(d); and (b) in the
Orders and LBR, the for October 8, 2013, I chec	egoing document will be served by the co ked the CM/ECF docket for this bankrupto	DNIC FILING (NEF) : Pursuant to controlling General urt via NEF and hyperlink to the document. On (<i>date</i>) by case or adversary proceeding and determined that eive NEF transmission at the email addresses stated
		⊠ Service information continued on attached page
case or adversary proce first class, postage prepa	13, I served the following persons and/or eding by placing a true and correct copy to the following persons and the following persons are served.	entities at the last known addresses in this bankruptcy hereof in a sealed envelope in the United States mail, judge here constitutes a declaration that mailing to the is filed.
		⊠ Service information continued on attached page
for each person or entity the following persons an such service method), b	served): Pursuant to F.R.Civ.P. 5 and/or entities by personal delivery, overnig a facsimile transmission and/or email as f	ACSIMILE TRANSMISSION OR EMAIL (state method controlling LBR, on (date) October 8, 2013, I served the mail service, or (for those who consented in writing to ollows. Listing the judge here constitutes a declaration mpleted no later than 24 hours after the document is
		⊠ Service information continued on attached page
I declare under penalty of	of perjury under the laws of the United Sta	ites that the foregoing is true and correct.
October 8, 2013	MANDI SANDSTROM	/s/ Mandi Sandstrom
Date	Printed Name	Signature

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

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

Scott Beauchamp on behalf of Creditor NCEP, LLC by AIS Data Services, LP as agent ecfnotices@ascensioncapitalgroup.com

Adam J Biehl on behalf of Interested Party Courtesy NEF BR-ECF@BaileyCavalieri.com, BR-ECF@BaileyCavalieri.com

Howard M Ehrenberg (TR) ehrenbergtrustee@sulmeyerlaw.com, ca25@ecfcbis.com;C123@ecfcbis.com

Howard M Ehrenberg (TR) on behalf of Trustee Howard M Ehrenberg (TR) ehrenbergtrustee@sulmeyerlaw.com, ca25@ecfcbis.com;C123@ecfcbis.com

Howard M Ehrenberg (TR) on behalf of Trustee Howard M Ehrenberg, Chapter 7 Trustee ehrenbergtrustee@sulmeyerlaw.com, ca25@ecfcbis.com;C123@ecfcbis.com

M Douglas Flahaut on behalf of Trustee Howard M Ehrenberg (TR) flahaut.douglas@arentfox.com

M Douglas Flahaut on behalf of Trustee Howard M Ehrenberg, Chapter 7 Trustee flahaut.douglas@arentfox.com

Todd S Garan on behalf of Creditor BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME ch11ecf@piteduncan.com

Arnold L Graff on behalf of Interested Party Courtesy NEF ecfcacb@piteduncan.com

Gina J Kim on behalf of Creditor Bank of America, N.A. gjkim@piteduncan.com, ecfcacb@piteduncan.com

John H Kim on behalf of Creditor Wells Fargo Bank N.A. jkim@cookseylaw.com

Andy Kong on behalf of Trustee Howard M Ehrenberg, Chapter 7 Trustee Kong.Andy@ArentFox.com

Dare Law on behalf of U.S. Trustee United States Trustee (LA) dare.law@usdoj.gov

Aram Ordubegian on behalf of Trustee Howard M Ehrenberg, Chapter 7 Trustee ordubegian.aram@arentfox.com

Joshua B Rittenberg on behalf of Creditor Bridgeview Commercial Finance, Inc. jrittenberg@muchshelist.com, Iromines@muchshelist.com

Ramesh Singh on behalf of Interested Party Courtesy NEF claims@recoverycorp.com

Michael W Tan on behalf of Creditor UNITED STATES OF AMERICA, IRS michael.w.tan@irscounsel.treas.gov

Jennifer R Tullius on behalf of Creditor OMP Azusa Cyn, LLC jtullius@tulliuslaw.com

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

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United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov

Robert M Yaspan on behalf of Debtor Frank J. Smith court@yaspanlaw.com, tmenachian@yaspanlaw.com

Robert M Yaspan on behalf of Plaintiff Frank J. Smith court@yaspanlaw.com, tmenachian@yaspanlaw.com

Robert P Zahradka on behalf of Interested Party Courtesy NEF ecfcacb@piteduncan.com

2. SERVED BY UNITED STATES MAIL:

<u>Judge</u>

Honorable Ernest M. Robles United States Bankruptcy Court 255 E. Temple Street, Suite 1560 Los Angeles, CA 90012

Request For Special Notice

Sedacca Accountancy Corporation 11661 San Vicente Blvd Ste 609 Los Angeles, CA 90049 Steven E Trabish 4850 Azusa Canyon Road Irwindale, CA 91706

Federal and State Government Units

Internal Revenue Service (IRS) P.O. Box 7346 Philadelphia, PA 19101-7346

Internal Revenue Service Centralized Insolvency Operations 600 Arch Street Philadelphia PA 19106

Franchise Tax Board Bankruptcy Section, MS: A-340 P. O. Box 2952 Sacramento, CA 95812-2952 Franchise Tax Board PO Box 1673 Sacramento, CA 95812-1673

Los Angeles County Tax Collector P. O. Box 54110 Los Angeles, CA 90051-0110

LA County Tax Collector P.O. Box 54088 Los Angeles, CA 90054-0088

Secured and Priority Creditors

Bank of America ATTN: Correspondence Unit CA6-919-01-41 PO Box 5170 Simi Valley, CA 93062

Bridgeview Bank Group 7940 S. Harlam Ave Brudgeview, IL 06455

Chase Bank Mail Code: 01-14-7302 P.O. Box 24696 Columbus, OH 43224-0696

20 Largest Creditors

James Griffen Esq. Three First Natural Plaza 70 West Madison St., Suite 4500 Chicago IL 60602

Options in Home Care c/o Aaron R. Salo Esq. 20955 Pathfinder Rd., Suite 100 Diamond Bar, CA 91765

John McGuire 5112 Baldwin Park Blvd. Los Angeles, CA 90064

Wells Fargo Bank 350 Colorado Blvd, Suite 390 Pasadena, CA 91105

Scope Aircraft Finance 140 East Town Street, Suite 1400 Columbus, OH 43215 Thomas G. Amon, Esq. 250 West 57th Street, Suite 1316 New York, NY 10107

William A. Klepperman 11355 West Olympic Blvd., Suite 100 Los Angeles, CA 90064

Lucille Dennis 2115 Stratford La Verne, CA 91750

The Sandown Fund LP 708 Third Street, Suite 2500 New York, NY 10017

JPMorgan Chase Bank, N.A.

JPMorgan Chase Bank, N.A. Attn: Correspondence Mail Mail Code LA4-5555, 700 Kansas Lane Monroe, LA 71203

Bank of America, N.A.

Todd S Garan Pite Duncan LLP 4375 Jutland Dr Ste 200 PO Box 1793 San Diego, CA 92177-0933

Gina J Kim Pite Duncan LLP 1920 Main St Ste 760 Irvine, CA 92614

3. SERVED BY EMAIL:

Dare Law on behalf of U.S. Trustee United States Trustee (LA) dare.law@usdoj.gov

Robert M Yaspan on behalf of Debtor Frank J. Smith court@yaspanlaw.com, tmenachian@yaspanlaw.com

Jennifer R Tullius on behalf of Creditor OMP Azusa Cyn, LLC jtullius@tulliuslaw.com

Brent Weiss on behalf of Proposed Buyer Shubin Nadal Associates, LLC BWeiss@allenmatkins.com