

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address Leonard M. Shulman – Bar No. 126349 Rika M. Kido – Bar No. 273780 SHULMAN HODGES & BASTIAN LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lshulman@shbllp.com; rkido@shbllp.com <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Lynda T. Bui, Chapter 7 Trustee	FOR COURT USE ONLY
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UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION	
In re: COLLEEN LAURA ENGELBRECHT, Debtor(s).	CASE NO.: 6:14-bk-13224-WJ CHAPTER: 7 NOTICE OF SALE OF ESTATE PROPERTY

Last Day to Submit Bids: 8/6/2015 at 5:00 pm	
Sale Date: Final Bidding Round/Court Hearing: 8/11/2015	Time: 1:00 pm
Location: See Attached.	

Type of Sale: ☒ Public ☐ Private **Last date to file objections:** 07/28/2015

Description of property to be sold: Residential real property located at 216 North Palm Avenue, Hemet, CA 92543

Terms and conditions of sale: Free and clear of liens, if any, pursuant to Bankruptcy Code §§ 363(b)(1) and (f)
Purchase price of \$99,900,000, subject to overbids. See attached for Bidding Procedures.

Proposed sale price: \$ 99,900.00

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

Overbid procedure (if any): Potential overbidders must bid an initial amount of at least \$3,100 over the consideration offered by the Buyer (total of at least \$103,000.) Minium bid increments after that shall be \$1,000.

See attached for more information.

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

August 11, 2015 at 1:00 pm

Courtroom 304

U.S. Bankruptcy Court

3420 Twelfth Street

Riverside, CA 92501

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

Rika M. Kido, Esq.

SHULMAN HODGES & BASTIAN LLP

100 Spectrum Center Drive, Suite 600

Irvine, CA 92618

Telephone: (949) 340-3400

Facsimile: (949) 340-3000

Email: rkido@shbllp.com

Date: 07/21/2015

In re Colleen Laura Engelbrecht
Case No. 6:14-bk-13224-WJ

Attachment to Notice of Sale of Estate Property:

I. INTRODUCTION

Lynda T. Bui (“Trustee”), the duly appointed, qualified and acting Chapter 7 trustee for the bankruptcy estate (“Estate”) of Colleen Laura Engelbrecht (“Debtor”), will bring a Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code §§ 363(b)(1) and (f), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission and Broker’s Costs; (3) Approving Payment of Property Insurance Premium; and (4) Granting Related Relief (“Sale Motion”).

The Trustee has received an offer from Fresh Start Homes, LLC (“Buyer”) to purchase the real property located at 216 North Palm Avenue, Hemet, California 92543 (the “216 Palm Property”) for \$99,900.00, subject to overbids. The offer by the Buyer is the best offer that the Estate has received thus far for the 216 Palm Property, and is the result of negotiations between the Trustee and the Buyer for the highest and best offer. Through the sale, the Trustee is expected to generate proceeds of \$89,791.52 for the benefit of the Estate and its creditors. Further, in the event the purchase price is increased by a successful overbid, the estimated net proceeds will increase and provide greater distribution to creditors.

Accordingly, the Trustee believes that good cause exists to grant the Sale Motion so the Trustee does not lose this favorable business opportunity.

II. RELEVANT FACTS

A. Case Background

On March 14, 2014, the Debtor filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code. Lynda T. Bui is the duly appointed, qualified and acting Chapter 7 trustee in the Debtor’s bankruptcy case.

The Debtor’s initial Section 341(a) Meeting of Creditors was held on April 17, 2014 and after multiple continuances, was concluded on October 16, 2014.

The deadline for non-governmental creditors to file proofs of claims was July 7, 2014 and the deadline for governmental creditors to file proofs of claims was September 10, 2014. At this time, there are seven (7) claims filed for a total amount of \$585,190.44, including a secured claim in the total amount of \$39,750.86.

B. The Property

The Debtor's Schedule A lists a joint tenancy ownership interest¹ in the 216 Palm Property, which is legally described as follows:²

THE NORTH 59.80 FEET OF THE WEST HALF OF LOT 6 OF
SUNNY HOMES TRACT, IN THE CITY OF HEMET, COUNTY
OF RIVERSIDE, AS PER MAP RECORDED IN BOOK 15,
PAGE(S) 54, OF MAPS, IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY.

APN: 443-171-026-0

The Debtor valued her interest in the 216 Palm Property at \$127,000.00. There are no deeds of trust recorded against the 216 Palm Property and the Debtor did not claim any exemptions in the 216 Palm Property.

The 216 Palm Property is residential real property and was previously occupied by a tenant on a month-to-month basis pursuant to a rental agreement entered into prior to the Petition Date. As of July 6, 2015, the 216 Palm Property is currently vacant.

After conducting an on-site inspection, the Trustee was informed by her real estate broker that the 216 Palm Property was worth approximately \$90,000.00 and recommended listing the 216 Palm Property for sale at \$90,000.00. However, after the entry of the Stipulated Judgment (discussed below), the Broker re-evaluated the 216 Palm Property and raised the listing price to \$99,900.00.

Prior to June 17, 2015, Mr. Engelbrecht was in possession, custody, or control of the 216 Palm Property, as well as the residential real property located at 224 North Palm Avenue, Hemet,

¹ Title in the 216 Palm Property is vested in the Debtor and her non-debtor spouse, John Alan Engelbrecht ("Mr. Engelbrecht"), "husband and wife as joint tenants."

² The legal description for the 216 Palm Property is believed to be accurate but may be corrected or updated by the title company in the transfer documents as necessary to complete the proposed sale transaction.

California 92543 (the “224 Palm Property” and together with the 216 Palm Property, the “Rental Properties”), and collected monthly rents from the tenants at the Rental Properties.

C. The Adversary Proceeding

On December 4, 2014, the Trustee filed a Complaint against Mr. Engelbrecht for: (1) Turnover of Property of the Estate and Accounting of Rents Collected [11 U.S.C § 542]; (2) Declaratory Relief; and (3) Sale of Property [11 U.S.C. § 363(h)] (“Complaint”), commencing the instant Adversary Proceeding No. 6:14-ap-01325-WJ. Specifically, the Complaint relates to the Rental Properties.

Pursuant to the Order Approving Stipulation to Continue Status Conference and Other Scheduling Deadlines entered on May 6, 2015, the Scheduling Deadlines have been continued/extended as follows: (1) the last day for discovery to be completed, including receiving responses to discovery requests, is September 28, 2015; (2) a pre-trial order must be filed and lodged by December 15, 2015; and (3) a Pre-Trial Conference is scheduled for December 17, 2015 at 1:30 p.m.

On June 17, 2015, the Court entered a Stipulated Partial Judgment in Favor of Plaintiff and Against Defendant as to Plaintiff’s Third Cause of Action and Partial Summary Adjudication in Favor of Plaintiff and Against Defendant as to Plaintiff’s First Cause of Action (“Stipulated Judgment”). Specifically, the Stipulated Judgment provides that the Trustee is authorized to sell both the interest of the Estate and Mr. Engelbrecht in the Rental Properties and that Mr. Engelbrecht will turn over the Rental Properties to the Trustee.

Since the entry of the Stipulated Judgment, Mr. Engelbrecht has turned over the Rental Properties.

D. Settlement Between the Estate, Mr. Engelbrecht and Rhoda Joan Engelbrecht

On July 16, 2015, the Trustee filed a Motion for Order Approving Settlement and Compromise of Disputes Under Federal Rule of Bankruptcy Procedure 9019 Between the Bankruptcy Estate, John Alan Engelbrecht and Rhoda Joan Engelbrecht (docket number 44) (“Settlement Motion”). Through the Settlement Motion, the Trustee seeks approval of a global settlement (“Settlement Agreement”) of the Estate’s interest in, among other things, the Rental

1 Properties and the Rhoda Claim (discussed below). The Settlement Agreement provides, among
2 other things, that the Rental Properties will be treated as community property (as opposed to joint
3 tenancy) and that all proceeds received from the sale of the Rental Properties become property of
4 the Estate. The Settlement Motion was filed without a hearing pursuant to the procedures
5 outlined in Local Bankruptcy Rule 9013-1(o)(1). The deadline to oppose and request a hearing
6 on the Settlement Motion is August 3, 2015. The Trustee does not anticipate any opposition to
7 the Settlement Motion and that the Settlement Motion will be approved by the Court prior to the
8 hearing on the Sale Motion.

9 **E. Employment of Real Estate Broker, Marketing Efforts and Basis for the Value of**
10 **the Property**

11 On June 4, 2014, the Court entered an Order authorizing the employment of Matt
12 Vanderbeek of Pro Realty Group (“Broker”) as the Trustee’s real estate broker to assist her with
13 effectively listing and marketing the Rental Properties for sale, as well as negotiating a sale price
14 to prospective buyers to provide a benefit to the Estate (“Employment Order”) (docket number
15 23).

16 The Broker has more than fifteen (15) years of experience in the sale of real property as
17 well as property valuations and is familiar with valuing real property in today’s economic
18 environment. The Broker initially valued the 216 Palm Property for the amount of \$90,000.00.
19 However, after the entry of the Stipulated Judgment (discussed below), the Broker re-evaluated
20 the 216 Palm Property and recommended listing the 216 Palm Property for \$99,900.00.

21 The 216 Palm Property has been listed on the MLS for almost one month.

22 On or about June 30, 2015, the Trustee received a full price offer to purchase the 216
23 Palm Property in the amount of \$99,900.00 from the Buyer. On or about July 8, 2015, the
24 Trustee sent the Buyer a counter-offer, which included bankruptcy specific terms. The Buyer
25 accepted the counter-offer.

26 The Buyer’s offer that is the subject of the Sale Motion represents the best offer received
27 by the Trustee. As set forth below, the Trustee believes the sale of the 216 Palm Property will
28 benefit the Estate and its creditors.

F. Liens and Encumbrances Against the 216 Palm Property and Their Proposed Treatment Through the Sale

The following chart sets forth the liens and encumbrances against the 216 Palm Property as detailed in the Preliminary Title Report dated July 6, 2015 ("Title Report"), a copy of which is attached as Exhibit "1" to the Declaration of Lynda T. Bui ("Bui Declaration") annexed to the Sale Motion, and the proposed treatment of the liens and encumbrances through the sale:

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owed</u>	<u>Treatment of Lien Through the Sale</u>
Riverside County Treasurer-Tax Collector	Real property taxes	\$1,106.98 (estimated) ³	All outstanding real property taxes will be paid through escrow on the sale transaction.
Rivercrest Plaza, Inc.	Abstract of Judgment recorded on December 24, 2012, in the Official Records of Riverside County, document number 2012-0626918 ("Rivercrest Abstract"). The Rivercrest Abstract relates to a judgment entered on July 25, 2012 in the total amount of \$39,750.86 against Cindy Lee Alden dba Elite Salon and Dereck Alden dba Elite Salon (the sister and brother-in-law of the Debtor), and the Debtor and Mr. Engelbrecht ("Rivercrest Judgment").	\$51,588.94 (as of July 17, 2015)	This lien will be paid through escrow on the sale of the 224 Palm Property which is anticipated to close concurrent with the sale of the 216 Palm Property. As such, the 216 Palm Property will be sold free and clear of this lien and this lien will <u>not</u> attach to the proceeds from the sale of the 216 Palm Property. In the event a sale of the 224 Palm Property does not close, this lien will be paid through escrow on the sale transaction.
Rhoda Joan Engelbrecht ("Mrs. Engelbrecht")	Abstract of Judgment recorded on June 27, 2013, in the Official Records of Riverside County, document number 2013-0310368 ("Rhoda Abstract"). The Rhoda Abstract relates to a judgment entered on June 4, 2013 in the amount of \$433,250.00 in favor of Mrs. Engelbrecht and against Mr. Engelbrecht in Case No. RIC 1217884. On April 21, 2014, Mrs. Engelbrecht filed a general unsecured claim against the Estate in the amount of \$453,806.25, which appears on the Claims Register as claim number 2 ("Rhoda Claim"). The face of the Rhoda Claim asserts that the basis of the claim is for a	\$453,806.25 (per the Rhoda Claim)	The Rhoda Abstract attaches to Estate property, but the Rhoda Abstract was recorded within one (1) year of the Petition Date and the Trustee believes that it is avoidable pursuant to Sections 547 and 550 of the Bankruptcy Code. Pursuant to a settlement entered into between the Trustee, Mr. Engelbrecht and Mrs. Engelbrecht, and subject to Court approval, Mrs. Engelbrecht has agreed to the following treatment of the Rhoda Claim and the Rhoda Abstract: - The Rhoda Claim shall be allowed as a general unsecured claim in the total amount of \$453,806.25. - Payment of the Rhoda Claim will be subordinated behind other <u>allowed</u> general unsecured claims.

³ Includes \$622.67 (delinquent for 2013-2014) and \$484.31 (delinquent for 2014-2015).

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
	“loan for construction of primary residence.” In support of the Rhoda Claim is a copy of the Rhoda Abstract.		<p>- Within fourteen (14) days of the entry of the order approving the settlement, Mrs. Engelbrecht shall execute an Acknowledgment of Satisfaction of Judgment (“Acknowledgment”) in order to release the Rhoda Abstract. The Trustee or her agent shall record the Acknowledgment.</p> <p>If, for some reason, the Acknowledgment is not recorded prior to the close of escrow, provided in the settlement, since the Rhoda Abstract is subject to a bona fide dispute, pursuant to Bankruptcy Code Sections 363(b) (1) and (f)(4), the Trustee seeks to sell the 216 Palm Property free and clear of the encumbrance with such disputed encumbrance to attach to the proceeds of the sale in the same validity and priority as prior to the sale pending Court approval of the settlement.</p> <p>The Settlement Motion was filed with the Court on July 16, 2015.</p>

All costs of sale, including escrow fees and real estate commissions will be paid at closing.

G. The Purchase Offer and Summary of the Sale Terms

The Buyer has offered to purchase the 216 Palm Property for \$99,900.00. The purchase price includes a deposit of \$2,997.00. Attached as Exhibit “2” to the Bui Declaration annexed to the Sale Motion is a true and correct copy of the Residential Purchase Agreement and Joint Escrow Instructions and Counter Offer (collectively the “Agreement”).

A summary of the Agreement’s terms and highlights are discussed below, but the summary and discussion are not meant to be a complete review of every provision of the Agreement. The Agreement itself is the legally binding document the Trustee seeks approval of and, in the event of any inconsistency between the terms, provisions or effect of the Agreement and the description of it in these pleadings, the Agreement alone shall govern and not these pleadings or the descriptions herein.

In summary, the principal terms of the sale of the 216 Palm Property shall be as follows
(the Trustee is referred to at times as the “Seller” in the following summary):

Buyer:	Fresh Start Homes, LLC
Purchase Price:	\$99,900.00, subject to the Bidding Procedures set forth below. \$2,997.00 to be paid as a deposit and the remainder to be paid at closing.
Title; Title Insurance	Within three (3) business days after acceptance of the Counter Offer, the title company of Seller’s choice will be instructed to provide a preliminary report of the condition of title to the 216 Palm Property, including copies of underlying documents referred to in Schedule B thereof, for Buyer’s review. Buyer may, not later than the end of the period in this paragraph, or until three (3) days after receipt of the preliminary report and underlying documents, whichever occurs later, give Seller written notice (“Notice of Title Disapproval”) that Buyer disapproves the condition of title with respect to a material matter(s) that interfere with the use of the 216 Palm Property for the purpose for which it is currently used or intended to be used. Such notice must refer to the specific exception(s) in Schedule B of the preliminary report and the specific underlying document(s) which are the basis for Buyer’s disapproval. Within five (5) business days after receipt of such notice, Seller may, in Seller’s sole discretion, either (i) cancel the Addendum and the sale, in which event Buyer’s and Seller’s obligations under the Addendum shall be terminated and Buyer shall receive a full refund of Buyer’s deposit, or (ii) elect to correct the item(s) that was disapproved by Buyer, in which event the sale shall proceed. Seller may correct such item by any means that will result in the Title Company either removing the disapproved exception(s) from the preliminary report or providing title insurance coverage by endorsement against such exception(s). At the close of the sale, Seller shall convey and Buyer shall accept title to the 216 Palm Property as shown in Schedule B of the preliminary report, subject to any corrections as in this paragraph above, free and clear of all monetary liens, subject to the terms of the within contract. Seller shall pay the costs of a CLTA Standard Owner’s policy of title insurance.
Bankruptcy Sale	Buyer acknowledges that Seller is a Trustee appointed to administer the above referenced bankruptcy estate, and is a party to the Agreement solely in that capacity. Seller and Broker and agents have not and will not determine the condition or fitness for use of the 216 Palm Property for any particular purpose. The sale shall be “as is,” “where is,” “with all faults,” and with no warranty by or recourse whatsoever to Seller or Broker or agents herein. Transfer of the 216 Palm Property shall be by Quit Claim Deed. All parties acknowledge that Seller is a party to the Agreement solely in the capacity as Trustee of the above referenced bankruptcy estate and that in the event of any default in the performance of any of Seller’s obligations under the Offer (as modified hereby) or in the event that any other claim is asserted against the Seller, Trustee or the estate in connection with this transaction, the Trustee shall in no event have any personal liability whatsoever (whether in her individual capacity or otherwise), it being expressly understood and agreed that Buyer’s sole recourse, if any, in such event shall be to the assets of such estate.
Bankruptcy Court Approval; Overbidding	The sale is subject to notice to creditors, approval by the Bankruptcy Court, and higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale. Payment of any and all real estate brokers’ commissions is also subject to notice to creditors and approval by the Bankruptcy Court. Buyer acknowledges and agrees that Seller may not seek to obtain the Bankruptcy Court’s approval if Seller has determined that it would be in the best interest of the bankruptcy estate not to do so.
Real Estate Agent Commission	Through escrow on the sale of the 216 Palm Property, and subject to 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 split a commission in the amount of six percent (6%) of the final purchase price.

<p>Purchase Without Warranties</p>	<p>Buyer acknowledges and agrees that, to the maximum extent permitted by law, the sale contemplated by the Agreement is made “as-is,” “where-is,” and “with all faults,” except as specifically provided in the Agreement. Seller and Brokers and agents herein have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, concerning or respecting (i) value of the 216 Palm Property; (ii) income to be derived from the 216 Palm Property; (iii) suitability of the 216 Palm Property, or lack thereof for any activity or use which Buyer may intend to conduct thereon, including any possibilities or limitations for future development; (iv) habitability, merchantability, marketability, profitability, or fitness for a particular purpose, of the 216 Palm Property, or lack thereof; (v) manner, quality, state of repair, or lack of repair of the 216 Palm Property; (vi) nature, quality, or condition of the 216 Palm Property, or any portion, system, or component thereof, including without limitation, water, soil, and geology; (vii) compliance of the 216 Palm Property or its operation, or lack thereof, with any laws, ordinances, regulations, rules, or orders of any applicable governmental authority or body; (viii) manner or quality of engineering, design, construction or materials, if any, incorporated into the 216 Palm Property; (ix) compliance or lack of compliance with any land use, building and safety, or other laws, ordinances, regulations, rules, orders, or other requirements imposed or enforced by any governmental or non-governmental body, including without limitation the Americans with Disabilities Act of 1990; (x) the presence or absence at, on, under, or adjacent to the 216 Palm Property, of materials described as “hazardous substances, hazardous materials, or toxic substances” or by similar terms under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §§9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S. Code §§1801, et seq.), the Resource Conservation and Recovery Act (42 U.S. Code §§6901, et seq.), the Toxic Substance Control Act (15 U.S. Code §2601, et seq.), the Clean Water Act (33 U.S. Code §1251, et seq.), California Health and Safety Code §25117 or 25316), or other statutes and laws, all as amended and including all regulations issued thereunder; (xi) the content, completeness or accuracy of any Due Diligence materials or Preliminary Report regarding Title to the 216 Palm Property; (xii) the conformity or lack of conformity of the improvements to any plans or specifications for the 216 Palm Property, including any plans and specifications that may have been or may be provided to Buyer; (xiii) the conformity or lack of conformity of the 216 Palm Property to past, current, or future applicable zoning or building requirements; (xiv) any deficiency of any undershoring, drainage, or other aspects, systems, or components of or affecting the 216 Palm Property; (xv) the fact, if applicable, that all or a portion of the 216 Palm Property may be located on or near any natural hazard zone as determined by any governmental agency or body; (xvi) the existence of vested land use, zoning, or building entitlements affecting the 216 Palm Property or any other property; or (xvii) any other matter. Without in any manner limiting the foregoing, Buyer hereby acknowledges and agrees that (i) Seller’s Broker, has provided (and will hereafter provide) to Buyer various materials and information relating to the Property, including, without limitation, information and materials relating to the condition of the 216 Palm Property, and (ii) all such materials and information so provided to Buyer by Seller’s Broker shall, for all purposes of this Agreement, be deemed to have been disclosed to Buyer by the Seller, as well.</p>
<p>Trustee’s Liability</p>	<p>The Buyer acknowledges that the Trustee is acting in her official capacity only. No personal liability shall be sought or enforced against the Trustee with regard to the Addendum, including the Addendum, the assets, the sale of the 216 Palm Property, or the physical condition of the 216 Palm 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 216 Palm Property and the Addendum; and all disputes arising before and after closing shall be resolved in said Court. Further, the Trustee and the Buyer have agreed that if a dispute arises, such dispute may initially be</p>

	resolved through the Mediation Program pending in the United States Bankruptcy Court for the Central District of California
Bankruptcy Court Jurisdiction	The U.S. Bankruptcy Court for the Central District of California shall have sole and exclusive jurisdiction to interpret and enforce the terms of the Agreement and Buyer hereby consents and submits to such exclusive jurisdiction. The Agreement shall be interpreted and enforced pursuant to the laws of the United States of America including the Bankruptcy Code, Title 11, United States Code.

H. Tax Consequences of Sale

The Trustee is not aware of any tax consequences to the Estate for the sale of the Property.

I. Notice of Bidding Procedures

The Trustee has determined that it would benefit the Estate to permit all interested parties to receive information and bid for the 216 Palm Property instead of selling the 216 Palm Property to the Buyer on an exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of this Estate, the Trustee also seeks Court approval of the following bidding procedures ("Bidding Procedures"):

1. Potential overbidder(s) must bid an initial amount of at least \$3,100.00 over the Purchase Price, or \$103,000.00. Minimum bid increments thereafter shall be \$1,000.00. The Trustee shall have sole discretion in determining which overbid is the best for the Estate and will seek approval from the Court of the same.

2. Overbids must be in writing and be received by the Trustee and the Trustee's counsel, Shulman Hodges & Bastian LLP to the attention of Rika M. Kido on or before **three (3) business days prior to the hearing on the Sale Motion**.

3. Overbids must be accompanied by certified funds in an amount equal to three percent (3%) of the overbid purchase price.

4. The overbidder must also provide evidence of having sufficient specifically committed funds to complete the transaction, or a lending commitment for the bid amount and such other documentation relevant to the bidder's ability to qualify as the purchaser of the 216 Palm Property and ability to close the sale and immediately and unconditionally pay the winning bid purchase price at closing.

5. The overbidder must seek to acquire the 216 Palm Property on terms and conditions not less favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase the 216 Palm Property as set forth in the Agreement attached as Exhibit "2" to the Bui Declaration annexed to the Sale Motion, including closing on the sale of the 216 Palm Property in the same time parameters as the Buyer.

6. All competing bids must acknowledge that the 216 Palm Property is being sold on an "AS IS" basis without warranties of any kind, expressed or implied, being given by the Trustee, concerning the condition of the 216 Palm Property or the quality of the title thereto, or any other matters relating to the 216 Palm Property. The competing bid buyer must represent

and warrant that he/she is purchasing the 216 Palm Property as a result of their own investigations and are not buying the 216 Palm Property pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction, or on the behalf of the Trustee. The competing bidder must acknowledge that he/she has inspected the 216 Palm Property, and upon closing of Escrow governed by the Agreement, the competing buyer forever waives, for himself/herself, their heirs, successors and assigns, all claims against the Debtor, her attorneys, agents and employees, the Debtor's Estate, Lynda T. Bui as Trustee and individually, and her attorneys, agents and employees, arising or which might otherwise arise in the future concerning the 216 Palm Property.

7. If overbids are received, the final bidding round for the 216 Palm Property shall be held at the hearing on the Sale Motion in order to allow all potential bidders the opportunity to overbid and purchase the 216 Palm Property. At the final bidding round, the Trustee or her counsel will, in the exercise of their business judgment and subject to Court approval, accept the bidder who has made the highest and best offer to purchase the 216 Palm Property, consistent with the Bidding Procedures ("Successful Bidder").

8. At the hearing on the Sale Motion, the Trustee will seek entry of an order, *inter alia*, authorizing and approving the sale of the 216 Palm Property to the Successful Bidder. The hearing on the Sale Motion may be adjourned or rescheduled without notice other than by an announcement of the adjourned date at the hearing on the Sale Motion.

9. In the event the Successful Bidder fails to close on the sale of the 216 Palm Property within the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's Deposit and will be released from her obligation to sell the 216 Palm Property to the Successful Bidder and the Trustee may then sell the 216 Palm Property to the first back-up bidder approved by the Court at the hearing on the Sale Motion ("First Back-Up Bidder").

10. In the event First Back-Up Bidder fails to close on the sale of the 216 Palm Property within the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's Deposit and will be released from her obligation to sell the 216 Palm Property to the First Back-Up Bidder and the Trustee may then sell the 216 Palm Property to the second back-up bidder approved by the Court at the hearing on the Sale Motion ("Second Back-Up Bidder").

11.

J. Request for Payment of Real Estate Commission

Bankruptcy Code Section 327 allows, with court approval, for the trustee to employ professional persons, "that do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a). By the Employment Order entered on June 4, 2014, the Trustee was authorized to employ the Broker to assist the Trustee in the marketing and sale of the 216 Palm Property.

Bankruptcy Code Section 328 allows employment of a professional person under section 327 "on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." 11 U.S.C. § 328(a) (emphasis added). Through the Sale Motion, as provided in the Agreement, the Trustee seeks

1 authorization to pay a real estate broker commission in the amount of six percent (6%) of the
2 purchase price. Through escrow on the sale of the 216 Palm Property, and subject to Bankruptcy
3 Court approval, the Trustee shall pay a real estate broker's commission as follows⁴:

<u>Agent</u>	<u>Commission</u>
Trustee's Broker Matt Vanderbeek of Pro Realty Group	\$2,997.00
Buyer's Broker Bruce Herwig of Tri County Realty	\$2,997.00
Total Commission	\$5,994.00

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8 Additionally, the Trustee seeks authorization to reimburse the Broker in the amount
9 \$940.00 for payments made by the Broker for cleaning and gardening services, trash cleanup and
10 to rekey the locks. Attached as Exhibit "3" to the Bui Declaration annexed to the Sale Motion is
11 a true and correct copy of the invoices for the cleaning and gardening services.

12 **K. Request for Payment of Property Insurance Premium**

13 Pursuant to the Settlement Agreement, Mr. Engelbrecht agreed to maintain the insurance
14 for the Rental Properties and to name the Trustee as the loss payee on the insurance against the
15 Rental Properties. The Trustee agreed that through the close of escrow on the Rental Properties,
16 the Trustee would reimburse Mr. Engelbrecht for the costs to maintain the insurance on the
17 Rental Properties from July 1, 2015 through the close of escrow on the sale of the Rental
18 Properties. Attached as Exhibit "4" to the Bui Declaration annexed to the Sale Motion is a true
19 and correct copy of the Evidence of Property Insurance for the 216 Palm Property ("Proof of
20 Insurance").

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28 ⁴ The total amount of real estate broker's commission will increase if the purchase price for the 216 Palm
Property is increased through by a successful overbid; but in no event will exceed six percent (6%) of the purchase
price.

1 Pursuant to the Proof of Insurance, the yearly premium for the 216 Palm Property is
2 \$248.00. Thus, the monthly premium is \$20.67. There is an additional charge of \$5.00 per
3 month to pay monthly premiums for the property insurance for the Rental Properties.
4 Accordingly, the total monthly premium for the 216 Palm Property is \$23.17. Accordingly, the
5 Trustee seeks authorization to reimburse Mr. Engelbrecht approximately \$46.33 for the two
6 monthly premiums for the property insurance and an additional monthly premium of \$23.17, if
7 necessary, for property insurance until the close of escrow.

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **100 Spectrum Center Drive, Suite 600, Irvine, California 92618**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **July 21, 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:

CHAPTER 7 TRUSTEE: Lynda T. Bui (TR) trustee.bui@shbllp.com, C115@ecfcbis.com

COUNSEL FOR SETTLING PARTY JOHN ALAN ENGELBRECHT: Norma Duenas norma@socaladvocates.com

COUNSEL FOR THE CHAPTER 7 TRUSTEE: Rika Kido rkido@shbllp.com, avernnon@shbllp.com

COUNSEL FOR THE CHAPTER 7 TRUSTEE: Leonard M Shulman lshulman@shbllp.com

COUNSEL FOR THE DEBTOR: Edward G Topolski egt@hemetlaw.com

INTERESTED PARTY: United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **July 21, 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.

☒ 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*) **July 21, 2015**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Judge's Copy (via Messenger) U.S. Bankruptcy Court Attn: Honorable Wayne Johnson 3420 Twelfth Street, bin outside of Courtroom 304 Riverside, CA 92501-3819	Trustee's Agent/Broker (via Email) Matt Vanderbeek Pro Realty Group Email: MattVanderbeek@gmail.com
Buyer's Agent/Broker (via Email) Bruce Herwig Tri-County Realty Email: bruceherwig@yahoo.com	Interested Party (via Email) Maria Carmen Espinoza Home Smart Real Estate Email: ecarmenrealtor@gmail.com

☒ 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.

July 20, 2015
Date

Erlanna Lohayza
Printed Name

/s/ Erlanna Lohayza
Signature

EMAIL SERVICE LIST

Interested Party

Larry Bubley
Brubaker Culton Realty & Development
Email: larrybubley@yahoo.com

U.S. MAIL SERVICE LIST

Buyer

Fresh Start Homes,LLC
Attn: Rebekah Loberg
2107 W. Florida Avenue
Hemet, CA 92544

Interested Party

Maritza Gutierrez
Realty ONE Group Champions
19322 Jesse Lane
Riverside, CA 92508

Interested Party

Ferryawaty Effendi
Arch Pacific Realty & PB Lending
16872 Bolsa Chica Street, Suite 203
Huntington Beach, CA 92649

Interested Party

Greg Morse
505 E. 1st Street, Suite H
Tustin, CA 92780

Interested Party

Donald Miller
3775 Tecumseh Court
Hemet CA 92545

CONTINUED ON THE FOLLOWING PAGE

U.S. MAIL SERVICE LIST, CONTINUED

DEBTOR

COLLEEN LAURA ENGELBRECHT
PO BOX 542
NUEVO, CA 92567-0542

CREDITOR LISTING

ACCOUNT RECOVERY SERVICE
PO BOX 1691
OXNARD, CA 93032-1691

CREDITOR LISTING

ADVANCED CALL CENTER
TECHNOLOGIES
PO BOX 9091
JOHNSON CITY, TN 37615-9091

CREDITOR LISTING

ASSET ACCEPTANCE LLC
PO BOX 2036
WARREN, MI 48090-2036

CREDITOR LISTING

BANK OF AMERICA HOME LOANS
4161 PIEDMONT PARKWAY
GREENSBORO, NC 27410-8119

CREDITOR LISTING

BANK OF AMERICA HOME LOANS
PO BOX 5170
SIMI VALLEY, CA 93062-5170

PROOF OF CLAIM ADDRESS

CAPITAL RECOVERY V, LLC
C/O RECOVERY MANAGEMENT
SYSTEMS CORPORATION
25 SE 2ND AVENUE, SUITE 1120
MIAMI, FL 33131-1605

CREDITOR LISTING

CBCS
PO BOX 163250
COLUMBUS, OH 43216-3250

PREFERRED ADDRESS

CAVALRY PORTFOLIO SERVICES
LLC
500 SUMMIT LAKE DR
STE 400
VALHALLA NY 10595-2322

CREDITOR LISTING

CHRISTOPHER C. LAI, MD
196 WEST LEGION ROAD
BRAWLEY, CA 92227-7713

CREDITOR LISTING

DAVID M. RIENTS, ESQ.
PO BOX 6349
ORANGE, CA 92863-6349

CREDITOR LISTING

DEVENDRA S. KAPOOR, MD
PO BOX 788
HEMET, CA 92546-0788

CREDITOR LISTING

FIRST DATA
4000 CORAL RIDGE DRIVE
CORAL SPRINGS, FL 33065-7614

CREDITOR LISTING

FIRST DATA GLOBAL LEASING
PO BOX 173845
DENVER, CO 80217-3845

CREDITOR LISTING

GC SERVICES LIMITED
PARTNERSHIP
COLLECTION AGENCY DIVISION
PO BOX 2667
HOUSTON, TX 77252-2667

CREDITOR LISTING

GE CAPITAL RETAIL BANK/JC
PENNY
ATTN: BANKRUPTCY DEPARTMENT
PO BOX 103104
ROSWELL, GA 30076-9104

CREDITOR LISTING

GREEN TREE SERVICING L
332 MINNESOTA ST STE E610
SAINT PAUL MN 55101-1311

CREDITOR LISTING

JOHN ENGELBRECHT
11285 PERRIS BOULEVARD
MORENO VALLEY, CA 92557-5655

REQUEST FOR NOTICE

JOHN ENGELBRECHT
C/O SOUTHERN CALIFORNIA LAW
ADVOCATES
ATTN: NORMA DUENAS, ESQ.
2112 E. 4TH STREET, SUITE 103
SANTA ANA, CA 92705

CREDITOR LISTING

KOHL'S
PO BOX 3043
MILWAUKEE, WI 53201-3043

CREDITOR LISTING

LTD FINANCIAL SERVICES, LP
7322 SOUTHWEST FREEWAY,
SUITE 1600
HOUSTON, TX 77074-2134

CREDITOR LISTING

LEADING EDGE RECOVERY
SOLUTIONS
5440 NORTH CUMBERLAND AVE
STE 300
CHICAGO, IL 60656-1486

CREDITOR LISTING

MARIE MYERS ESQ
4075 ELEVENTH STREET
RIVERSIDE CA 92501-3501

CREDITOR LISTING

MERCHANT CREDIT
ASSOCIATION
PO BOX 206
OCEANSIDE, CA 92049-0206

CREDITOR LISTING

MIDLAND CREDIT MANAGEMENT,
INC.
8875 AERO DRIVE, SUITE 200
SAN DIEGO, CA 92123-2255

CREDITOR LISTING

PROGRESSIVE MANAGEMENT
SYSTEMS
PO BOX 2220
WEST COVINA, CA 91793-2220

CREDITOR LISTING

RHODA JOAN ENGELBRECHT
C/O LAW OFFICE OF W. JEFFERY
FULTON
1545 HOTEL CIRCLE SOUTH,
SUITE 240
SAN DIEGO, CA 92108-3414

CREDITOR LISTING

RIVERCREST PLAZA INC.
C/O THE GUERRINI LAW FIRM
106 SOUTH MENTOR AVENUE, #150
PASADENA, CA 91106-2951

CREDITOR LISTING

SKO BRENNER AMERICAN, INC.
PO BOX 230
FARMINGDALE, NY 11735-0230

CREDITOR LISTING

SOUTHWEST COLLECTION
SERVICE, INC.
1111 E. KATELLA AVENUE, SUITE
260
ORANGE, CA 92867-5060

PROOF OF CLAIM ADDRESS

MICHAEL R. YOUNG, ESQ.
C/O SOUTHWEST COLLECTION
SERVICE, INC.
PO BOX 6349
ORANGE, CA 92863-6349

CREDITOR LISTING

STANISLAUS CREDIT CONTROL
SERVICE
PO BOX 480
MODESTO, CA 95353-0480

CREDITOR LISTING

VISION FINANCIAL CORP.
PO BOX 7477
ROCKFORD, IL 61126-7477

NOTICE PURPOSES

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY
OPERATIONS
PO BOX 7347
PHILADELPHIA, PA 19101-7347

**ADDITIONAL NOTICE FOR
CLAIMANT**

CORPORATION SERVICE CO.
AGENT FOR SERVICE OF
PROCESS FOR RIVERCREST
PLAZA INC.
2710 GATEWAY OAKS DR. STE
150N
SACRAMENTO, CA 95833

**ADDITIONAL NOTICE FOR
CLAIMANT**

RIVERCREST PLAZA INC.
ATTN: PRESIDENT
P.O. BOX 525
MORENO VALLEY, CA 92556

RETURNED MAIL

USE PREFERRED ADDRESS

CAVALRY SPV I, LLC
500 SUMMIT LAKE DRIVE, STE 400
VALHALLA, NY 10595-1340

**RTS 4/2/15 SEE NEW ADDRESS
ABOVE**

REQUEST FOR NOTICE

JOHN ENGELBRECHT
C/O SOUTHERN CALIFORNIA LAW
ADVOCATES
ATTN: NORMA DUENAS, ESQ.
27570 COMMERCE CENTER
DRIVE, SUITE 117
TEMECULA, CA 92590