

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  WEILAND GOLDEN LLP Michael J. Weiland, State Bar No. 96672 mweiland@wglp.com Beth E. Gaschen, State Bar No. 245894 bgaschen@wglp.com 650 Town Center Drive, Suite 950 Costa Mesa, California 92626 Telephone 714-966-1000 Facsimile 714-966-1002  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 7 Trustee Thomas H. Casey	FOR COURT USE ONLY
---	--------------------

<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</b>	
In re: CORNERSTONE PROPERTIES, LLC,       Debtor(s).	CASE NO.: 8:15-bk-12845-TA CHAPTER: 7       <b>NOTICE OF SALE OF ESTATE PROPERTY</b>

<b>Sale Date:</b> 11/03/2015	<b>Time:</b> 11:00 am
<b>Location:</b> 411 West Fourth Street, Santa Ana, California 92701	

**Type of Sale:** ☐ Public ☒ Private **Last date to file objections:** 10/20/2015

**Description of property to be sold:**

All rights, titles and interests of the Trustee and the Estate in and to: (1) that certain real property consisting of an office building located at 34092 Violet Lantern, Dana Point, California 92629 (APN 682-273-05) (the "Real Property"); and (2) certain personal property related to and located on the Real Property.

**Terms and conditions of sale:** Sale is "as is, where is," and free and clear of liens and interests pursuant to 11 U.S.C. Sections 363(b) and (f) and subject to Bankruptcy Court approval and back-up offers. See attached Notice of Hearing.

**Proposed sale price:** \$ 900,000.00

**Overbid procedure (if any):** Sale is subject to back-up offers, should Buyer fail to perform.

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

November 3, 2015 at 11:00 a.m.  
Courtroom 5B, United States Bankruptcy Court  
411 West Fourth Street, Santa Ana, California 92701

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

WEILAND GOLDEN LLP  
Michael J. Weiland, Esq.  
Beth E. Gaschen, Esq.  
650 Town Center Drive, Suite 950  
Costa Mesa, California 92626  
Telephone 714-966-1000  
Facsimile 714-966-1002

Date: 10/09/2015

<p>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</p> <p>WEILAND GOLDEN LLP Michael J. Weiland, State Bar No. 96672 mweiland@wglp.com Beth E. Gaschen, State Bar No. 245894 bgaschen@wglp.com 650 Town Center Drive, Suite 950 Costa Mesa, California 92626 Telephone: (714) 966-1000 Facsimile: (714) 966-1002</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Chapter 7 Trustee Thomas H. Casey</p>		<p>FOR COURT USE ONLY</p>	
<p><b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</b></p>			
<p>In re:</p> <p>CORNERSTONE PROPERTIES, LLC,</p>		<p>CASE NO.: 8:15-bk-12845-TA CHAPTER: 7</p> <p><b>NOTICE OF MOTION FOR:</b> ORDER: (1) APPROVING COMPROMISE OF CONTROVERSY PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019; (2) AUTHORIZING SALE OF REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS PURSUANT TO 11 U.S.C. §§363(b) and (f); (3) APPROVING BUYER AS GOOD-FAITH PURCHASER PURSUANT TO 11 U.S.C. §363(m); AND (4) AUTHORIZING PAYMENT OF UNDISPUTED LIEN AND ORDINARY COSTS OF SALE</p> <p><b>(Specify name of Motion)</b></p> <p>DATE: 11/03/2015 TIME: 11:00 am COURTROOM: 5B PLACE: 411 West Fourth Street Santa Ana, California 92701</p>	
<p>Debtor(s).</p>			

1. TO (*specify name*): ALL INTERESTED PARTIES
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~~. SUMMARY OF THE MOTION. A COMPLETE COPY OF THE MOTION MAY BE OBTAINED FROM THE CLERK OF THE COURT OR BY CONTACTING COUNSEL FOR THE TRUSTEE.
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.)

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: 10/09/2015

WEILAND GOLDEN LLP  
Printed name of law firm

/S/ MICHAEL J. WEILAND  
Signature

Michael J. Weiland  
Printed name of attorney

**SUMMARY OF THE MOTION**

By the Motion,<sup>1</sup> Trustee seeks the Court's approval of the settlement of a number of disputes, and as part of the settlement, the sale of an office building, to one of the parties to the settlement. Trustee believes that settlement is in the best interest of the Estate, and that within the context of the settlement and the claims affecting the office building, buyer's offer to purchase the office building represents the fair market value of what is being sold, and is in the best interest of the Estate. Accordingly, Trustee respectfully requests that the Bankruptcy Court grant the Motion.

On June 3, 2015, Debtor filed a voluntary petition for relief under chapter 7 of the United States Bankruptcy Code, case no. 8:15-bk-12845-TA (the "Bankruptcy Case"). Thomas H. Casey was appointed chapter 7 trustee on June 25, 2015.

Debtor's bankruptcy schedules list that certain real property consisting of an office building located at 34092 Violet Lantern, Dana Point, California 92629 (APN 682-273-05) (the "Real Property") and the first trust deed lien of Farmers & Merchants Bank (the "Farmers & Merchants Lien") against the Real Property in the approximate amount of \$459,669. A copy of Debtor's Schedules A and D is attached to the Motion as Exhibit "2."

By order of the Court entered August 28, 2015, as Docket No. 34 (the "Operating Order"), Trustee was authorized to operate the Real Property from June 25, 2015, the date of his appointment, for a period of twelve (12) months, through and including June 24, 2016, including the collection of rents and the use of cash collateral to maintain and insure the Real Property and make the monthly payments on the first trust deed loan on the Real Property. A copy of the Operating Order is attached to the Motion as Exhibit "3."

Pursuant to the terms and provisions set forth in the Agreement for Purchase and Sale of Real Property, Settlement of Disputes, Release of Claims, and Joint Escrow Instructions, dated October 6, 2015 (the "Agreement"), a copy of which is attached to the Motion as Exhibit "1," Susan Walker (the "Buyer") has offered to purchase, free and clear of Liens and Interests pursuant to Bankruptcy Code Section 363(b) and (f), all rights, titles and interests of Trustee and the Estate (collectively, the "Property"), in and to: (a) the Real Property; and (b) any governmental permits, variances and subdivision approvals appurtenant to the Real Property, and any furniture, furnishings, equipment, parts and supplies located on the Real Property, owned by the Estate, and used exclusively in connection with the operation, maintenance, repair and leasing of the Real Property (collectively, the "Personal Property"). The Agreement includes:

- Exhibit "A" - Bill of Sale
- Exhibit "B" - Quitclaim Deed
- Exhibit "C" - Title Report

The Title Report reflects the Farmers & Merchants Lien, the balance of which will be paid through escrow.

The following is alleged:

---

<sup>1</sup> All terms not defined herein shall have the meaning set forth in the Motion.

1. Buyer, Blue Ribbon Marketing, Inc., a California corporation doing business as "VendorCo" ("Blue Ribbon"), Debtor and/or Richard Smith ("Richard") previously entered into one or more than one written agreement (collectively, the "Prior Purchase Contract") for the sale to Buyer and/or Blue Ribbon of either the Real Property, or a direct or indirect ownership interest in the Real Property.

2. One or more of the parties to the settlement agreement (collectively, the "Parties") is alleged to have breached or caused or induced a breach or default of the Prior Purchase Contract, thereby damaging other Parties.

3. Blue Ribbon is purportedly the master lessee of the Real Property, including pursuant to a written lease agreement dated as of March 27, 2015, between Debtor, as the landlord, and VendorCo (aka Blue Ribbon), as the tenant, and any addendums, exhibits, amendments, restatements or replacements thereof or thereto (collectively, the "Master Lease").

4. One or more of the Parties is alleged to have breached or caused or induced a breach or default of the Master Lease, thereby damaging other Parties.

5. Jack Rueweler ("Jack"), Linda Rueweler ("Linda") and J&LR Properties, LLC ("J&LR") are the subtenant of a portion of the Real Property, including pursuant to one or more of several written lease agreements, the operative and controlling one being a subject of contention, together with any addendums, exhibits, amendments, restatements or replacements thereof or thereto (collectively, the "Sublease").

6. One or more of the Parties are alleged to have breached or caused or induced a breach or default of the Sublease, thereby damaging other Parties.

7. Richard and/or Cornerstone Financial Network, Inc., a California corporation ("Network") are alleged to have sold to Buyer and/or Scott, pursuant to an oral agreement (the "Cinnamon Agreement"), for \$132,000.00, two promissory notes (the "Cinnamon Notes"); one dated September 17, 2012, in the amount of \$100,000.00, executed by Cinnamon Productions Bakery and Café/Foothill Ranch and the Farah Family Trust, and one dated July 29, 2011, in the principal amount of \$32,000.00, executed by Cinnamon Production Bakery and Café-San Clemente and Randy Farah. The \$100,000.00 Cinnamon Note is believed to be secured by a deed of trust against real property (the "Cinnamon Deed of Trust").

8. One or more of the Parties are alleged to have fraudulently induced one or more of the other Parties to enter into the Cinnamon Agreement, resulting in damage to such other Parties.

9. One of the Parties is alleged to have fraudulently induced Buyer to make one or more than one gift to that Party, resulting in damage to Buyer.

10. Blue Ribbon and Buyer, as plaintiffs, and Debtor, Richard, J&LR, Jack and Linda, as named defendants, are parties to a lawsuit (the "Lawsuit") pending before the Superior Court of the State of California, County of Orange, as Case No. 30-2014-00754244-CU-OR-CJC, relating to some or all of the matters referenced in Recitals "C" through "K" of the Agreement, and summarized above.

11. One or more of the Parties filed a complaint (the "DRE Complaint") with the California Department of Real Estate against Richard, relating to some or

all of the matters referenced in Recitals "C" through "K" of the Agreement, and summarized above.

The Parties desire, pursuant to the Agreement, to provide for the: (1) the sale of the Property to Buyer or another person designated by Buyer ("Buyer's Designee"); (2) the termination of all leases and rental agreements affecting the Real Property, including the Master Lease and the Sublease, (3) the conveyance of the Cinnamon Notes to Network; (4) the withdrawal of the DRE Complaint; and (4) the settlement and release of certain Claims relating to or arising in connection with the matters referenced in Recitals "C" through "M" of the Agreement, and summarized above.

### **TERMS OF THE PROPOSED SALE AND SETTLEMENT**

Pursuant to the Agreement, Buyer has offered to purchase the Estate's interest in the Property, and subject to the Court's approval of the settlement and the sale, Trustee has accepted Buyer's offer (the "Sale"). In addition, Trustee, Buyer, Scott, Blue Ribbon, Jack, Linda, J&LR, Richard and Network (each, individually, a "Party" and all, collectively, the "Parties" to the Agreement), seek to effect several settlements and releases of claims (the "Settlement"). The salient terms of the Sale and Settlement are as follows:

1. **Bankruptcy Court Approval.** Articles 1, 2, 5 and 7 of the Agreement are binding and effective upon the execution of the Agreement by the Parties. Articles 3, 4 and 6 of the Agreement, which set forth the Sale obligation, the terms of the Sale, and the terms of the settlement and releases of Claims, are subject to approval of the Bankruptcy Court pursuant to an order which shall become final fifteen days after it is entered unless an appeal is timely filed and a stay pending appeal is obtained.
2. **Back-Up Offers.** Until the Closing, Trustee may solicit, propose, receive, negotiate and accept back-up offers for the Property, but the sale of the Property will not be subject to overbid, unless the sale of the Property fails to occur by reason of a breach or default of the Agreement by Buyer.
3. **Purchase and Sale of Property.** The Prior Purchase Contract is terminated and of no further force or effect. Rather, subject to the terms and conditions set forth in the Agreement, Trustee will sell all rights, titles and interests of Trustee and the Estate in the Property, free and clear of Liens and Interests pursuant to Bankruptcy Code Section 363(b) and (f), but without warranty or representation, and strictly "AS IS, to Buyer (or Buyer's Designee), and Buyer (or Buyer's Designee) will purchase the Property from Trustee.
4. **Purchase Price.** The price ("Purchase Price") for the Property is \$900,000.00, payable by Buyer as follows:
  - a. **Allowed Secured Claim Credit.** Absent a Default by Buyer, Buyer will have an allowed secured claim against the Estate in the amount of \$315,000.00 (\$250,000.00 on account of monies previously paid by Buyer to Debtor pursuant to the Purchase Contract, and \$65,000.00 on account of losses allegedly suffered by Buyer in connection with the Cinnamon Notes, with the \$65,000.00 credit to be noted by the Escrow Holder as a deposit by Buyer). Buyer's \$315,000.00 allowed secured claim will be fully satisfied by crediting, through Escrow at Closing, the entire \$315,000.00 allowed secured claim toward the payment of the Purchase Price (the "Allowed Secured Claim Credit");

- b. Final Deposit. On or before the Closing Performance Date, Buyer will deposit into Escrow, with Escrow Holder, the additional cash sum of \$585,000.00 (the "Final Deposit"). Buyer has represented to Trustee and the other Parties that Buyer has non-contingent loan approval for a new first trust deed loan sufficient to fund the Final Deposit.
- c. Application of Credits and Deposit Toward Payment of Purchase Price. Upon the Closing, the Final Deposit will be released to Trustee, and the Allowed Secured Claim Credit and the Final Deposit will be credited toward Buyer's payment of the Purchase Price.
5. Buyer's Cost Deposit. On or before the Closing Performance Date, Buyer will deposit into Escrow, with Escrow Holder, a cash deposit ("Buyer's Cost Deposit") in an amount equal to Buyer's Closing Costs as reasonably estimated by Escrow Holder.
6. Form of Payment. The Final Deposit and Buyer's Cost Deposit will be paid by federal wire transfer of funds to Escrow Holder in accordance with Escrow Holder's written instruction.
7. Maintenance of Deposits. All funds received by Escrow Holder pursuant to the Agreement, and all interest earned thereon, will be promptly deposited into an account in Escrow Holder's name at a federally insured bank, until disbursed pursuant to the Agreement, and if funds in excess of \$10,000.00 are reasonably anticipated to be held for more than then (10) days, then said account will be an interest bearing account, with the interest to accrue to the benefit of Buyer. No interest will be payable with respect to any funds deposited with Trustee.
8. Brokerage Commissions. Consistent with the Mutual Representations, including those set forth in Section 5.1(e) of the Agreement, no brokerage commission or finder's fee is payable in connection with the Agreement or the Sale, and Escrow Holder is to disregard any demands to the contrary. (Note: As discussed below, a real estate salesperson or broker previously involved with the Real Property has filed a proof of claim against the Estate in the amount of \$25,000.00, claiming to be owed that amount on account of pre-petition services allegedly performed by that person, but that person was not involved in the negotiation of the Settlement or the Agreement, Trustee does not believe any commission is owed to that person on account of any conduct by Trustee, and based on the information provided to Trustee by Richard (Debtor's principal), Trustee anticipates objecting to that claim).
9. Assigned Contracts. No executory contracts (such as laundry equipment contracts, landscape maintenance contracts, and heating, ventilating and air-conditioning (HVAC) equipment maintenance contacts) will be assumed, assigned or delegated pursuant to the Agreement.
10. The Sublease. The Sublease will remain in full force and effect until 11:59 p.m. on Tuesday, December 1, 2015 (the "Sublease Termination Date"), at which time all leases, subleases and other agreements, oral or written, excluding the Agreement but including the Sublease, relating to the lease, sublease, use or occupancy of all or any portion of the Property by J&LR, Jack or Linda, or any other person claiming any right of possession through them, will be deemed terminated and of no further force and effect, except as set forth in the Agreement.



11. The Master Lease. The Master Lease will remain in full force and effect through and until the Closing, at which time all leases, subleases and other agreements, oral or written, excluding the Agreement but including the Sublease, relating to the leasing, subleasing, use or occupancy of all or any portion of the Property by Buyer or Blue Ribbon, or any other person claiming any right of possession thereunder, will be deemed and declared terminated and of no further force and effect, except as set forth in the Agreement; provided that Buyer will pay Trustee all rent and other amounts payable pursuant to the Master Lease through and until the Closing.
12. Assignment of LLC Membership Interest. Effective as of the Closing, Buyer will be deemed to have assigned to Richard, and Richard will be deemed to have accepted from Buyer, without need for further action or documentation, all membership interests and other rights, titles and interests of Buyer, if any, in and to Debtor and Network.
13. Assignment of Cinnamon Notes. Prior to the Closing, Scott and Buyer will cause to be executed before a Notary Public in recordable form and delivered into Escrow for recording upon the Closing an assignment to Network of the deed of trust securing the \$100,000.00 Cinnamon Note (the "Assignment of the Cinnamon Deed of Trust"), and effective as of the Closing, Scott and Buyer will be deemed to have assigned to Network, and Network will be deemed to have accepted from Scott and Buyer, without need for any further action or documentation, all rights, titles and interests of Scott and Buyer, if any, in and to the Cinnamon Notes.
14. Lawsuit. The Lawsuit, and all actions related thereto, will be stayed pending the Closing, and each Party will execute all documents and perform all acts required of such Party to cause the Lawsuit to be dismissed, with prejudice, within ten (10) Business Days following the Closing. with each Party to the Lawsuit bearing its own costs and expenses relating to the Lawsuit.
15. DRE Complaint. Within five (5) Business Days following the Execution Date, Buyer will notify the DRE, in writing (copying Seller and Richard), that the dispute underlying the DRE Complaint was resolved to Buyer's satisfaction, and that Buyer therefore withdraws the DRE Complaint.
16. Releases and Waivers. The Parties shall provide the releases and waivers set forth in the Agreement, effective as of the Closing.
17. Jurisdiction. The United States Bankruptcy Court for the Central District of California shall have sole and exclusive jurisdiction to hear and decide any and all controversies or matters relating to the Sale, the Settlement, and the Agreement.

#### **FILED PROOFS OF CLAIM**

On July 28, 2015, the Court filed the Notice of Possible Dividend and Order Fixing Time to File Claims as Docket No. 22-1, setting November 2, 2015, as the bar date for creditors to file proofs of claim (the "Bar Date"). As of the date of filing of this Motion, the proofs of claim listed below have been filed with the Court. Based upon discussions with Debtor's principal and his legal counsel, Trustee believes that except for one anticipated additional general unsecured claim in the amount of \$1,840, which Trustee expects will be

filed prior to the Bar Date, it is unlikely that any other proofs of claim will be filed by the Bar Date.

Claim	Claimant	Date Filed	Classification	Amount
1-2	Richard Smith	7/24/15	Secured Priority	\$311,875.34 \$2,775.00
2-1	Filed in Error Refer to Case #12-14235-TA			
3-1	Robert Bright - Bridgewaters Commercial Law Group	9/23/2015	General unsecured	\$8,014.25
4-1	Susan Walker	9/28/15	Secured General unsecured Total	\$250,000.00 \$282,000.00 \$532,000.00
5-1	Susan Walker and Blue Ribbon Marketing, dba Vendor Co.	9/28/15	Secured General unsecured Total	\$250,000.00 \$282,000.00 \$532,000.00
6-1	Charles Edward MacGregor	10/1/15	General Unsecured	\$25,000.00

The claims listed above total \$1,411,664.59, and the Farmers & Merchants Lien is estimated at approximately \$465,000.00, for a total of \$1,876,664.59. Trustee anticipates that: (a) prior to the Bar Date, the arbitrator involved in the Lawsuit will file an additional general unsecured claim in the amount of \$1,840.00, (b) title insurance premiums, escrow fees, recording fees, and other closing costs payable by the Estate in connection with the Sale will be approximately \$11,000.00; (c) the fees and costs of Trustee's legal counsel will be approximately \$38,000.00, (c) the fees and costs of Trustee's accountant will be approximately \$3,000.00, (d) the gross receipts tax payable by the Estate as a result of the sale will be \$2,500.00; (e) the annual LLC franchise tax payable to the California FTB will be \$800.00, (f) Trustee's statutory fee will be approximately \$48,000.00, and (e) no income taxes will be payable by the Estate as a result of the Settlement and the Sale; such that the total aggregate sum of all known and anticipated claims, liens, fees, costs and taxes is estimated at approximately \$2,011,504.59. If Claim 6-1 is disallowed in its entirety and Claim 5-1 is compromised at a discount, as anticipated by Trustee, then the Settlement (including the associated compromise of all the other claims listed above) and the Sale should result in a surplus case, with an anticipated surplus distribution to equity of approximately \$10,000.00. Trustee understands that Debtor's sole principal, Richard, who is a Party to the Settlement, reviewed and concurs with this analysis, and supports the proposed sale of the Property to Susan at a purchase price of \$900,000.00.

### **SUMMARY OF BASIS FOR RELIEF**

The proposed transaction has a legitimate business justification and is in the best interest of the Estate. If the Sale and Settlement are approved as contemplated, the Debtor's Estate is anticipated to be a surplus estate, with approximately \$10,000.00 estimated to be available for disbursement to Debtor and/or Debtor's equity upon the conclusion of the Bankruptcy Case. The proposed compromise resolves disputes among several parties, including Debtor's sole principal. Buyer will be paying a portion of the Purchase Price with, and in full satisfaction of, an allowed secured claim, and no brokerage commission or finder's fee will be payable in connection with the Sale. Notice of the Sale is being provided to all creditors, and the sale is subject to back-up offers, should Buyer fail to perform. As discussed below, Trustee believes the Settlement to be in the best interest of the Estate. Based upon discussions with various local real estate brokers, Trustee believes that the Property could be sold for about \$1,100,000.00, absent

the claims of Buyer set forth in the Lawsuit and evidenced by Buyer's lis pendens against the Property, and Buyer's and Blue Ribbon's claims filed in the Bankruptcy Case, all of which are being compromised for the \$315,000.00 Allowed Claims Credit. Buyer and Blue Ribbon each filed a claim in the Bankruptcy Case for \$532,000.00, and are compromising their claims through the proposed Settlement. Richard Smith, Debtor's principal, is waiving and releasing his claim. The \$8,014.25 claim of Robert Bright is on account of pre-petition legal services and will be reviewed by Trustee for possible objection. The \$25,000 claim of Charles Edward MacGregor is based on a written agreement for brokerage services that required the sale of the Property to close on or before August 31, 2015, in order for Mr. MacGregor to be entitled to that commission. Because the sale did not occur, MacGregor's claim is without merit and Trustee intends to either object to the claim or settle the claim at a large discount. Trustee believes Buyer's offer represents fair value for the Property, considering Buyer's equitable claims against the Property which are being resolved as part of the Settlement. Accordingly, Trustee believes that the proposed Sale and Settlement are fair and reasonable and within the proper exercise of his business judgment.

Ordinarily, a sale of real property by a bankruptcy estate would be subject to overbids. However, in this case, Trustee has accepted, subject to Court approval, Buyer's \$900,000 offer for the Property, without the possibility of overbids and at a sale price below fair market value, because Buyer's offer includes the settlement of what appear to Trustee to be meritorious claims and potentially very costly and complex litigation, including claims against Debtor and Debtor's sole principal (Richard), and because the Settlement and Sale are supported by Debtor's sole principal, who appears to be the only person who might potentially benefit if the Property were sold at a higher price. However, if as of the time of the hearing on this Motion, which is scheduled for after the Bar Date, any additional unanticipated claims have been filed in the case, then the issue of whether the sale of the Property to Buyer at a \$900,000 purchase price is still in the best interest of the Estate would need to be reconsidered by the Court.

Based upon discussions between Trustee's accountant and Debtor's principal (Richard) regarding Debtor's basis in the Property, Trustee does not believe that there will be any income taxes payable by the Estate as a result of the Settlement and the Sale.

Trustee believes the proposed Settlement and Sale are in the best interest of the Estate and its creditors because the Settlement and Sale are reasonably anticipated to result in the prompt payment of all allowed claims, in full, plus a possible modest surplus distribution to Debtor's sole equity (Richard), and are being consented to by Richard, with advice of counsel. While it is certainly possible that pursuing the litigation for the potential benefit of the Estate could result in a higher surplus distribution to equity than the surplus distribution anticipated under the Settlement, but there is no assurance that would be the result. The litigation involves complex issues, would be costly to the Estate pursue, and would be heavily dependent on the credibility of the witnesses, in part because of what appears to Trustee and his counsel to be less than perfect written documentation regarding the various relationships and transactions which are the subject of the litigation. Debtor's sole principal, Richard, presumably understands those issues, risks and concerns perhaps better than Trustee and Trustee's counsel, and is encouraging and consenting to the Settlement, even though success in the litigation and a sale of the Property for a higher price might result in him receiving a significantly higher surplus distribution. Based on the foregoing, the Settlement is fair and reasonable and a valid exercise of Trustee's reasonable business judgment. The compromise was entered into in good faith and was negotiated at arms' length. Accordingly, Trustee requests that the Bankruptcy Court enter an order pursuant to Bankruptcy Rule 9019 authorizing Trustee to enter into the Agreement and approving the terms of the compromise as agreed upon by the Parties.

**SUMMARY OF RELIEF SOUGHT**

Based on the foregoing, Trustee respectfully requests that this Court enter an order:

1. Granting the Motion;
2. Finding that notice of the Motion is proper and adequate;
3. Approving in its entirety the Agreement and releases of claims set forth therein, including as a compromise of claims pursuant to Federal Rule of Bankruptcy Procedure 9019(a);
4. Approving the terms of the Agreement, a copy of which is attached to the Motion as Exhibit "1," and authorizing Trustee to sell the Property to Buyer (or Buyer's Designee) "as is," "where is," without representation or warranty, free and clear of any and all liens, claims, and interests, pursuant to 11 U.S.C. § 363(b) and (f), and determining that Buyer is entitled to the protections of § 363(m);
5. Authorizing Trustee to cause to be paid, through escrow, from the proceeds of the sale, and without further order of the Court, the Farmers & Merchants Lien, escrow fees, title insurance premiums and other ordinary and typical closing costs payable by Trustee pursuant to the Agreement;
6. Authorizing Trustee to execute any documents or take any actions reasonably necessary to effectuate the terms of the Agreement;
7. Waiving any requirements for lodging periods imposed by Local Bankruptcy Rule 9021-1 and any other applicable bankruptcy rules;
8. Waiving the stay imposed by Federal Rule of Bankruptcy Procedure 6004(h) and any other applicable bankruptcy rules; and
9. For such other and further relief as the Court may deem just and proper.

## PROOF OF SERVICE OF DOCUMENT

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

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

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION FOR ORDER: (1) APPROVING COMPROMISE OF CONTROVERSY PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019; (2) AUTHORIZING SALE OF REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS PURSUANT TO 11 U.S.C. SECTIONS 363(B) AND (F); (3) APPROVING BUYER AS GOOD-FAITH PURCHASER PURSUANT TO 11 U.S.C. SECTION 363(M); AND (4) AUTHORIZING PAYMENT OF UNDISPUTED LIEN AND ORDINARY COSTS OF SALE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **October 9, 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*) **October 9, 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*) **October 9, 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.

The Honorable Theodor C. Albert, 411 W. 4th Street, 5th Floor, Santa Ana, CA 92701

☐ Service information continued on attached page

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

October 9, 2015

*Date*

Kelly Adele

*Printed Name*

/s/ Kelly Adele

*Signature*

Cornerstone Properties, LLC  
11 Via Zapador  
Rancho Santa Margarita, CA 92688  
**Debtor**

Farmers & Merchants Bank  
302 Pine Avenue  
Long Beach, CA 90801

Blue Ribbon Marketing  
34092 Violet Lantern  
Dana Point, CA 92629

Bob Bright  
990 Highland Drive, Suite 206  
Solana Beach, CA 92075

Bridgewaters  
990 Highland Drive, Suite 206  
Solana Beach, CA 92075

Chicago Title Company  
Attn: Tom Votel & Ken Cyr, Title Officers  
4041 MacArthur Blvd, Suite 400  
Newport Beach, CA 92660

Chicago Title Company  
Commercial Escrow Department  
Attn: Karen Price, Commercial Escrow Officer  
4041 MacArthur Blvd, Suite 400  
Newport Beach, CA 92660

Cornerstone Properties, LLC  
Minutes of Meeting  
11 Via Zapador  
Rancho Santa Margarita, CA 92688

Darryl J. Paul  
30011 Ivy Glenn Drive- Suite 115  
Laguna Niguel, CA 92677

Dennis Negrón  
8287 White Oak Avenue  
Rancho Cucamonga, CA 91730

Employment Development Department  
Bankruptcy Group MIC 92E  
P.O. Box 826880  
Sacramento, CA 94280-0001

Farmers & Merchants Bank  
Attn: President  
302 Pine Avenue  
Long Beach, CA 90801

Farmers & Merchants Bank of Long Beach  
Attn: John W.H. Hinrichs, Agent for  
Service  
302 Pine Avenue  
Long Beach, CA 90801

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

IVAMS Inc.  
8287 White Oak Avenue  
Rancho Cucamonga, CA 91730

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101

Jack Rueweler  
34092 Violet Lantern, Suite 100  
Dana Point, CA 92629

Jack & Linda Rueweler  
c/o J&LR Properties, LLC  
25955 Via Del Rey  
San Juan Capistrano, CA 92675

Jain Law Group  
Attention: Raji Jain  
9891 Irvine Center Drive, Suite 100  
Irvine, CA 92618

J&LR Properties  
34092 Violet Lantern, Suite 100  
Dana Point, CA 92629

James K. Ulewelling  
695 Town Center Drive, Suite 700  
Costa Mesa, CA 92626

Jonathan C. Hatfield  
695 Town Center Drive, Suite 700  
Costa Mesa, CA 92626

MacGregor Brokerage & Inv.  
Chuck MacGregor  
33865 Mariana Drive, Suite A  
Dana Point, CA 92629

Mark Wasseman  
23682 Via Astorga  
Mission Viejo, CA 92691

Rajiv Jain  
Jain Law Group  
9891 Irvine Center Drive, Ste 130  
Irvine, CA 92618

Randall Scott Farah & Nanci Farah  
Cinnamon Productions  
22342 El Paso, #1  
Rancho Santa Margarita, CA 92688

Richard Smith  
c/o Cornerstone Financial Newtork, Inc.  
11 Via Zapador  
Rancho Santa Margarita, CA 92688

Robert Bright  
Bridgewaters Commercial Law Group  
935 Avenida Salvador  
San Clemente, CA 92672

Scott Walker  
27901 Encanto  
Mission Viejo, CA 92692

State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0090

Susan Walker  
27901 Encanto  
Mission Viejo, CA 92692

Susan Walker & Scott Walker  
c/o Blue Ribbon Marketing  
34092 Violet Lantern  
Dana Point, CA 92629-6530

Susan Walker & Scott Walker  
34092 Violet Lantern  
Dana Point, CA 92629-6530

Todd Smilovitz, Esq.  
Client Trust Account  
2640 Lincoln Boulevard, Ste A  
Santa Monica, CA 90405

Ulwelling Siddiqui LLP  
Attn: James K. Ulwelling  
695 Town Center Drive, Suite 700  
Costa Mesa, CA 92626

VendorCo  
34092 Violet Lantern  
Dana Point, CA 92629

**Electronic Mail Notice List**

Ronald Appel attorneyrappel@gmail.com

Thomas H Casey (TR) msilva@tomcaseylaw.com, thc@trustesolutions.net

Rajiv Jain ecf@jainlawgroup.com

United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

Michael J. Weiland mweiland@wgllp.com, kadele@wgllp.com;lfisk@wgllp.com;tziemann@wgllp.com



## PROOF OF SERVICE OF DOCUMENT

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

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

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

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **October 9, 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*) **October 9, 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*) **October 9, 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.

The Honorable Theodor C. Albert, 411 W. 4th Street, 5th Floor, Santa Ana, CA 92701

☐ Service information continued on attached page

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

October 9, 2015

*Date*

Kelly Adele

*Printed Name*

*/s/ Kelly Adele*

*Signature*

**Electronic Mail Notice List**

Ronald Appel attorneyrappel@gmail.com

Thomas H Casey (TR) msilva@tomcaseylaw.com, thc@trustesolutions.net

Rajiv Jain ecf@jainlawgroup.com

United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

Michael J. Weiland mweiland@wgllp.com, kadele@wgllp.com;lfisk@wgllp.com;tziemann@wgllp.com