

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. &
Email Address

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JULIET Y. OH (SBN 211414)
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FOR COURT USE ONLY

☐ Individual appearing without attorney
☒ Attorney for: Amy L. Goldman, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SAN FERNANDO VALLEY DIVISION

In re:

BURRATA, LLC,

CASE NO.: 1:16-bk-11314-MB
CHAPTER: 7

NOTICE OF SALE OF ESTATE PROPERTY

Debtor(s).

Sale Date: 08/01/2016

Time: 9:00 am

Location: 21041 Burbank Boulevard, Courtroom 303, Woodland Hills, California

☒ Public ☐ Private

Last date to file objections: 07/18/2016

Description of property to be sold:

The bankruptcy estate's right, title and interest in and to the real property lease for the restaurant premises located at 13730 Ventura Boulevard, Sherman Oaks, California 91423 (the "Premises"), certain machinery, equipment, fixtures, furniture and other personal property owned by the Debtor and located at the Premises, and certain other assets owned by the Debtor (but excluding the Debtor's liquor license). Please see attached Notice for more details.

Terms and conditions of sale:

Please see attached Notice.

Proposed sale price: \$ 300,000.00

Overbid procedure (if any):

Please see attached Notice.

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

Date: August 1, 2016

Time: 9:00 a.m.

Place: Courtroom 303

21041 Burbank Boulevard

Woodland Hills, California

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

Juliet Y. Oh, Esq.

Counsel for Amy L. Goldman, Chapter 7 Trustee

10250 Constellation Boulevard, Suite 1700

Los Angeles, California 90067

Tel: (310) 229-1234

Fax: (310) 229-1244

Email: jyo@lnbyb.com

Date: 07/11/2016

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Attorneys for Amy L. Goldman, Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

In re	)	Case No. 1:16-bk-11314-MB
)	
BURRATA, LLC,	)	Chapter 7
)	
Debtor.	)	NOTICE OF CHAPTER 7 TRUSTEE'S
	)	MOTION FOR ENTRY OF AN ORDER:
	)	(A) APPROVING SALE OF
	)	SUBSTANTIALLY ALL OF DEBTOR'S
	)	ASSETS (EXCLUDING LIQUOR
	)	LICENSE), FREE AND CLEAR OF LIENS,
	)	CLAIMS AND INTERESTS; (B)
	)	APPROVING OVERBID PROCEDURES;
	)	(C) GRANTING RELIEF FROM THE
	)	FORFEITURE OF DEBTOR'S REAL
	)	PROPERTY LEASE AND APPROVING
	)	THE ASSUMPTION AND ASSIGNMENT
	)	OF SUCH REAL PROPERTY LEASE;
	)	AND (D) GRANTING RELATED RELIEF
)	
	)	DATE: August 1, 2016
	)	TIME: 9:00 a.m.
)	PLACE: Courtroom "303"
)	21041 Burbank Boulevard
)	Woodland Hills, California
)	
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1 **PLEASE TAKE NOTICE** that a hearing will be held on August 1, 2016 at 9:00 a.m., in
2 Courtroom “303” located at 21041 Burbank Boulevard, Woodland Hills, California, before the
3 Honorable Martin R. Barash, United States Bankruptcy Judge, for the Court to consider the
4 motion (the “Motion”) filed by Amy L. Goldman, the duly appointed Chapter 7 Trustee (the
5 “Trustee”) for the bankruptcy estate (“Estate”) of Burrata, LLC (the “Debtor”), seeking the entry
6 of an order of the Court:

7 (A) pursuant to 11 U.S.C. § 363(b) and (f), authorizing the Trustee to sell
8 substantially all assets of the Estate but excluding the Debtor’s liquor license (the
9 “Property”), as more specifically described in that certain *Asset Purchase*
10 *Agreement* (the “APA”) between the Trustee and Artisanal Brewers Collective
11 LLC (the “Buyer”), a true and correct copy of which is attached as Exhibit “1” to
12 the Declaration of Amy L. Goldman annexed to the Motion (the “Goldman
13 Declaration”), free and clear of all liens, claims and interests, and pursuant to the
14 terms and conditions set forth in the APA, to the Buyer or a successful
15 overbidder;

16 (B) approving the overbid procedures set forth in the APA and the Motion (the
17 “Overbid Procedures”);

18 (C) pursuant to 11 U.S.C. § 365, (i) granting relief from the forfeiture of the real
19 property lease between the Debtor and Stella Katz, Successor Trustee of the Katz
20 Trust Dated July 17, 1989, a true and correct copy of which lease (together with
21 all amendments and addenda thereto, the “Lease”) is attached as Exhibit “2” to
22 the Goldman Declaration attached to the Motion, (ii) authorizing the Trustee to
23 assume the Lease and assign the Lease to the Buyer or a successful overbidder,
24 and (iii) establishing the cure amount payable under the Lease (the “Cure
25 Amount”);

26 (D) authorizing the Trustee to make certain distributions from the proceeds of the sale
27 of the Property at the closing of such sale, including, without limitation, the
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1 payment of post-petition insurance premiums for the leased premises and broker
2 commissions; and

3 (E) waiving the 14-day stay periods set forth in Rules 6004(h) and 6006(d) of the
4 Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) to enable the sale
5 of the Property to close as quickly as possible.

6 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion, the Trustee seeks
7 Court authority to sell the Estate’s right, title and interest in and to the Lease, certain machinery,
8 equipment, fixtures, furniture and other personal property owned by the Debtor, and certain other
9 assets as described in the APA but excluding the Debtor’s liquor license (collectively referred to
10 herein and in the Motion as the “Property”), in “as is, where is” condition, with no representation
11 or warranty, to the Buyer for the purchase price of \$300,000 (the “Purchase Price”), subject to
12 overbid, free and clear of liens, claims and interests, and in accordance with the terms and
13 conditions set forth in the APA.

14 **PLEASE TAKE FURTHER NOTICE** that, since the Estate’s interest in and to the
15 Lease is a critical component of the proposed sale of the Property, pursuant to the Motion, the
16 Trustee also seeks the entry of a Court order granting relief from the forfeiture of the Lease so
17 that the Trustee may move forward with the assumption and assignment of the Lease to the
18 Buyer or a successful overbidder (and, to that end, establishing the Cure Amount required to be
19 paid by the Trustee to assume the Lease).

20 **PLEASE TAKE FURTHER NOTICE** that, in order to maximize the value obtained by
21 the Estate for the Property and induce the Buyer to submit a formal “stalking horse” offer to
22 purchase the Property, the Buyer is requiring that certain Overbid Procedures be implemented in
23 connection with the sale of the Property, including, without limitation, the payment of a breakup
24 fee in the sum of \$15,000 to the Buyer (the “Breakup Fee”) in the event that the winner bidder of
25 the Property following an auction of the Property to be conducted by the Trustee at the time of
26 the hearing on the Motion (the “Auction”) is a party other than the Buyer. Accordingly, by the

1 Motion, the Trustee is seeking Court approval of the Overbid Procedures described in the APA
2 and summarized below:

3 a. Overbid Requirements. Any party interested in submitting an overbid for
4 the Property (“Overbid”) must, not later than 4:00 p.m. (Pacific time) on the date that is
5 three (3) business days before the hearing on the Motion, *i.e.*, by July 27, 2016 (the
6 “Overbid Deadline”), deliver such Overbid in writing to counsel for the Trustee (Juliet Y.
7 Oh, Esq., Levene, Neale, Bender, Yoo & Brill L.L.P., 1025 Constellation Blvd., Suite
8 1700, Los Angeles, California 90067, Email: JYO@LNBYB.com, Facsimile: (310) 229-
9 1244), in accordance with the requirements set forth below:

10 i. The purchase price for the Property in any Overbid must be in the
11 sum of at least \$320,000. Any Overbid must otherwise be on the same terms and
12 conditions set forth in the APA.

13 ii. Each party submitting an Overbid must, by the Overbid Deadline:
14 (i) deliver a deposit in the sum of \$32,000, in the form of a cashier’s check to the
15 Trustee, so that such deposit is actually received by the Overbid Deadline, (ii)
16 deliver to counsel for the Trustee proof of committed funds available to the bidder
17 sufficient to enable such bidder to consummate the sale of the Property, which
18 proof shall be in the form of a letter of credit, loan commitment or other form
19 acceptable to the Trustee in the Trustee’s sole discretion, and (iii) information to
20 demonstrate adequate assurance of future performance of the Lease by such
21 bidder (“Adequate Assurance Information”), which information may include (but
22 is not limited to) balance sheets and income statements for the last two years,
23 federal income tax returns for the last two years, information regarding the
24 bidder’s experience in restaurant operations, and identity of the management of
25 the bidder and their qualifications. In the event that (i) the bidder fails to timely
26 make the deposit, (ii) the bidder fails to timely provide proof of committed funds,
27 (iii) the bidder fails to provide Adequate Assurance Information, or (iv) the
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Trustee determines, in her sole discretion, that the proof of funds provided to Trustee by a bidder is unacceptable, the Trustee may, at her sole discretion, disqualify such bidder from participating in Auction. In the event that the Trustee exercises her discretion and disqualifies a bidder from participating in the Auction, the Deposit made by such bidder (if any) shall be returned to the bidder.

b. Bidding At Auction. If at least one qualified bidder who has submitted an Overbid appears at the Auction, the Trustee shall designate what she determines, in her reasonable judgment, to be the best and highest Overbid received for the Property to be the leading bid at the Auction. Thereafter, the Trustee shall solicit better and higher bids for the Property, in bidding increments of at least \$5,000, from the qualified bidders participating in the Auction (including the Buyer, if it chooses to participate) until the best and highest bid for the Property has been determined by the Trustee. The qualified bidder who submits the second best/highest bid for the Property at the Auction shall be designated as the backup bidder.

c. Backup Bidder. In the event that Buyer or the successful overbidder cannot timely complete the purchase of the Property, the Trustee shall be authorized to proceed with the sale of the Property to the backup bidder without further notice, hearing or order of the Court.

d. Closing of Sale and Forfeiture of Deposits. The winning bidder will have until the first business day that is seven (7) days after the date of entry of a Court order granting the Motion to consummate the sale of the Property. If the winning bidder fails to do so, the winning bidder will be deemed to have forfeited its deposit unless the Court or the Trustee agrees to provide the winning bidder with an extension of time to close the sale. If the winning bidder fails to close and forfeits its deposit, the backup bidder will be notified and will then have until the first business day that is seven (7) days after the date of such notification to close its purchase of the Property or will be deemed to have forfeited its deposit unless the Court or the Trustee agrees to provide such backup bidder

1 with an extension of time to close the sale. The deposit of the backup bidder will be
2 retained by the Trustee following the conclusion of the Auction and will be returned to
3 the backup bidder on the earlier to occur of (i) the closing by the winning bidder of its
4 purchase of the Property or (ii) August 15, 2016, unless the backup bidder has forfeited
5 its Deposit pursuant to the terms and conditions set forth herein.

6 e. Breakup Fee. In the event that the winning bidder of the Property
7 following the Auction is a party other than the Buyer, the Buyer shall be entitled to the
8 payment of a Breakup Fee in the sum of \$15,000 from the Purchase Price on or about the
9 date of closing of the sale.

10 **PLEASE TAKE FURTHER NOTICE** that, if you are interested in bidding for the
11 Property at the Auction, and you would like additional information regarding the Property and/or
12 the bidding process, you may contact counsel for the Trustee: Juliet Y. Oh, Esq., LNBYB,
13 10250 Constellation Boulevard, Suite 1700, Los Angeles, California 90067, Telephone: (310)
14 229-1234, Facsimile: (310) 229-1244, Email: JYO@LNBYB.com.

15 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion, the Trustee seeks
16 authority to make the following distributions directly from the proceeds of the sale of the
17 Property at the closing of such sale:

Purchase price	\$300,000.00
Cure Amount (est.)	(\$97,565.36)
Repayment of Financing	(\$37,797.42)
Broker commission (6%)	(\$18,000.00)
<u>Post-petition insurance premiums (est.)</u>	<u>(\$ 1,225.00)</u>
Net sale proceeds:	\$145,412.22

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23 **PLEASE TAKE FURTHER NOTICE** that, pursuant to the Motion, the Trustee also
24 seeks to have the 14-day stay periods provided by Bankruptcy Rules 6004(h) and 6006(d)
25 waived to facilitate the closing of the sale of the Property as soon as possible after the entry of an
26 order granting the Motion.

1 **PLEASE TAKE FURTHER NOTICE** that the Motion is based upon this Notice of the
2 Motion, the Motion and the accompanying Memorandum of Points and Authorities, the Goldman
3 Declaration and the Declarations of Martin Colman and Cary Berger submitted in support of the
4 Motion, 11 U.S.C. §§ 363 and 365, Bankruptcy Rules 2002, 6004 and 6006, Local Bankruptcy
5 Rules 2002 and 6004-1, the entire record of the Debtor's bankruptcy case, the statements,
6 arguments and representations of counsel to be made at the hearing on the Motion, and any other
7 evidence properly presented to the Court at, or prior to, the hearing on the Motion.

8 **PLEASE TAKE FURTHER NOTICE** that complete copies of the Motion and the
9 documents submitted in support thereof will be provided upon written request to Juliet Y. Oh,
10 Esq., LNBYB, 10250 Constellation Boulevard, Suite 1700, Los Angeles, California 90067,
11 Telephone: (310) 229-1234, Facsimile: (310) 229-1244, Email: JYO@LNBYB.com.

12 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-
13 1(f), any interested party that wishes to oppose the relief requested in the Motion must, not later
14 than fourteen (14) days prior to the scheduled hearing date set forth above, file with the Clerk of
15 the Bankruptcy Court and serve upon counsel for the Trustee (whose name and address are set
16 forth on the upper left-hand corner of the first page of this Notice) and the Office of the United
17 States Trustee, "[a] complete written statement of all reasons in opposition thereto ...,
18 declarations and copies of all evidence on which the responding party intends to rely, and any
19 responding memorandum of points and authorities."

20 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-
21 1(h), the failure to file and serve a timely opposition to the Motion may be deemed by the Court
22 to constitute consent to the relief requested in the Motion.

23 **WHEREFORE**, the Trustee respectfully requests that the Court enter an Order:

- 24 1. finding that the notice given by the Trustee in connection with the sale of the
25 Property and the hearing on the Motion is adequate, sufficient, proper and complies with all
26 applicable provisions of the Bankruptcy Code and Bankruptcy Rules;
- 27 2. granting the Motion in its entirety;

3. approving the Overbid Procedures;
4. authorizing the Trustee to sell the Property to the Buyer (or to a successful overbidder), free and clear of all liens, claims and interests, pursuant to the terms and conditions set forth in the APA;
5. finding that the Buyer (or a successful overbidder) is a good faith buyer entitled to all of the protections afforded by Section 363(m) of the Bankruptcy Code;
6. authorizing the Trustee to execute and deliver, on behalf of the Estate, any and all documents that may be reasonably necessary to consummate the sale of the Property;
7. granting relief from the forfeiture of the Lease and approving the assumption and assignment of the Lease to the Buyer (or a successful overbidder), and establishing the Cure Amount which must be paid in connection therewith;
8. authorizing the Trustee to pay the Cure Amount, the repayment of the post-petition financing obtained by the Estate from the Buyer, broker commissions, and post-petition insurance premiums relating to the leased premises directly from the sale proceeds at the closing of the sale;
9. waiving the 14-day stay periods set forth in Bankruptcy Rules 6004(h) and 6006(d); and
10. granting such other and further relief as may be necessary or appropriate under the circumstances.

Dated: July 11, 2016

AMY L. GOLDMAN, CHAPTER 7 TRUSTEE

By: /s/ Juliet Y. Oh
TODD A. FREALLY
JULIET Y. OH
LEVENE, NEALE, BENDER, YOO
& BRILL L.L.P.
Attorneys for Amy L. Goldman,
Chapter 7 Trustee

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 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

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

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **July 11, 2016**, 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:

- **Steven A Alpert** enotice@pricelawgroup.com, alpert@pricelawgroup.com
- **Todd A Frealy** taf@lnbrb.com
- **Anthony A Friedman** aaf@lnbyb.com
- **Amy L Goldman (TR)** gabriela.garcia@lewisbrisbois.com, AGoldman@iq7technology.com
- **Juliet Y Oh** jyo@lnbrb.com, jyo@lnbrb.com
- **United States Trustee (SV)** ustpreion16.wh.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On **July 11, 2016**, 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 **July 11, 2016**, 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.

Served via Attorney Service

The Honorable Martin R. Barash
United States Bankruptcy Court
21041 Burbank Boulevard, Suite 342 / Courtroom 303
Woodland Hills, CA 91367

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

July 11, 2016

Stephanie Reichert

/s/ Stephanie Reichert

Date

Type Name

Signature