

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF LOUISIANA

IN RE:	*	CASE NO. 15-12308
	*	
ALTERNATIVES LIVING, INC.	*	SECTION "A"
	*	
	*	CHAPTER 11
<i>Debtor</i>	*	
	*	<i>Small Business Debtor</i>

ORDER

Came for hearing on June 22, 2016, the *Motion for Order Authorizing the Auction of Real Property (303 Morrison Rd., New Orleans, LA) Pursuant to 11 U.S.C. §363, and Employment of Gilmore Auction & Realty Co. as Auctioneer Pursuant to 11 U.S.C. §327 (the "Motion")* (doc. 218) filed by Alternatives Living, Inc. ("Debtor").

PRESENT:

Leo D. Congeni, Counsel for Debtor;
Conor Lutkewitte, Counsel for CapitalOne, N.A;
Wayne Maiorana, Counsel for First Bank and Trust;
Mary Langston, Counsel for the United States Trustee;
Glenn Schreiber, Counsel for the Internal Revenue Service.

Upon considering the Motion, argument of counsel, objection(s), if any, pleadings, exhibits and other papers filed of record and finding good cause exists for the relief requested in the Motion and that due and proper notice of the Motion and hearing held on June 22, 2016, had been given,

IT IS ORDERED that:

1. The Motion is granted and the objection(s), if any, to the Motion or the relief requested therein that have not been withdrawn, waived, or settled, and all reservations of rights included therein, are overruled on the merits and/or otherwise incorporated in this Order.

2. The Debtor is authorized to employ Sperry Van Ness/Gilmore Auction & Realty Company (“Auctioneer”) to conduct a sale via auction of property described as follows:

A CERTAIN PORTION OF GROUND, together with all the buildings and improvements thereon and all the rights, ways, privileges, servitudes, and appearances and advantages thereunto belonging or in anywise appertaining, situated I the THIRD MUNICIPAL DISTRICT of the City of New Orleans, in SECTION 25 of the LAKRATT TRACT (former New Orleans Lakeshore Land Company Subdivision), designated as LOT 2A-3B-4A on a plan of resubdivision by Gandolfo, Kuhn Luecke & Associates, dated March 10, 1980, and registered in Orleans Parish COB, 767, folio 426 on June 2, 1980 and further in accordance with a plan of said surveyors dated October 13, 1980, whereon said lot is located and described as follows:

Begin at a point on the east line of Farrar Road or Canal at its intersection with the south line of Morrison Road a distance of 573.03 feet, to the point of beginning; Lot 2A-3B-4A measures thence 115 feet front on Morrison Road, with a width in the rear of 114,40 feet and a depth on the sideline nearer Lot 2A-3B-3 of 284.07 feet and a depth on opposite sideline adjoining Lot 2A-3B-4B of 295.90 ft.

(the “Property”) pursuant to that certain Exclusive Rights of Sale Auction Listing Agreement (the “Auction Agreement”), a copy of which is attached hereto as Exhibit “A”.

3. The sale of the Property shall be free and clear of claims, liens, encumbrances, or any other interests of any kind in or upon the Property (collectively, the “Liens”), with such Liens attaching to the sale proceeds in the same rank, priority and validity as existed at the time of the sale.

4. The sale of the Property shall be "AS IS" without any warranty whatsoever, even as to title, free and clear of all Liens.

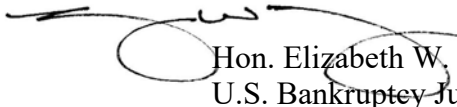
5. The Purchaser shall be a purchaser in good faith and entitled to all of the protections afforded by 11 U.S.C. § 363(m).

6. This Order shall be binding upon and govern the acts of the Recorder of Mortgages for the Parish of Orleans, State of Louisiana and all filing officers, filing agents, recorders of mortgages and other persons or entities who may be required by operation of law or duties of office to accept, file, register or otherwise record or release documents or instruments and such persons are directed to cancel all Liens from their records as to the Property, upon closing of the sale of the Property, including the following Liens:

- a. The following Notice of Federal Tax Lien in favor of the Department of Treasury – Internal Revenue Service, recorded with the Mortgage Office for the Parish of Orleans:
 - (i) MIN 1175335, NA# 2014-48835, in the amount of \$18,066.58, recorded 12/5/2014;
 - (ii) MIN 1133925, NA# 2013-31015, in the amount of \$122,311.56, recorded 8/16/2013;
 - (iii) MIN 1130245, NA# 2013-25591, in the amount of \$559,757.38, recorded 7/11/2013;
 - (iv) MIN 1130246, NA# 2013-25992, in the amount of \$470,237.64, recorded 7/11/2013;
 - (v) MIN 919386, NA# 2007-77672, in amount of \$106,737.16, recorded 11/14/2007.

7. Movant shall serve a copy of this Order on the required parties who will not receive notice through the ECF System pursuant to the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules and file a certificate of service to that effect within three (3) days.

New Orleans, Louisiana, July 5, 2016.


Hon. Elizabeth W. Magner
U.S. Bankruptcy Judge

SVN/GILMORE AUCTION & REALTY COMPANY
3316 FLORIDA AVENUE
KENNER, LOUISIANA 70065-3645

EXCLUSIVE RIGHTS OF SALE AUCTION LISTING AGREEMENT

1. This exclusive right of sale agreement of the property below for the listing and sale of real estate made this
3rd day of June, 2016 by and between the following parties:

SELLER (S):	Alternatives Living, Inc	Ricky Roberson
NAME	ATTN:	
4219 Magnolia St	rroberson@alternativesliving.org	
ADDRESS	E-MAIL	
New Orleans	LA	70115
CITY	STATE	ZIP
PHONE	FAX	CELL

Hereinafter referred to as "Seller",

SELLER'S DESIGNATED AGENT:
SPERRY VAN NESS/GILMORE AUCTION & REALTY COMPANY
3316 FLORIDA AVE.
KENNER, LA 70065-3645
PHONE: (504) 468-6800 FAX: (504) 468-6811

Hereinafter referred to as "Auctioneer",

Hereby agree that the Seller shall sell the below described property upon the terms and conditions as set forth in this contract.

2. This agreement shall consist of 3 pages plus exhibits and attachments, if any.
3. Seller gives auctioneer the sole and exclusive right to sell the following described property:
303 Morrison Rd New Orleans, LA

Subdivision:	City:	Parish/County:	State:	Zip:
Including:				
Excluding:				

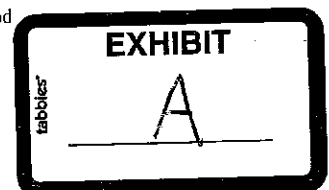
4. DATE OF AUCTION SALE: 30-45 days after approval Auctioneer shall conduct an Auction /Scaled Bid, Dual Bid on or about the above date and shall use its best efforts to secure a purchaser for the above described property at the terms named within this agreement or upon any other price and terms acceptable to the Seller.

- 4a. SERVICES PROVIDED BY AUCTIONEER: Marketing Services- Budget planning, signage, ad copy, ad layout, brochure design, printing, ad placement, mailing lists, telemarketing, property preview coordination. Auction Services- Auctioneering, bid assistants, clerking, contract preparation, auction facilities, audiovisual. Post Auction Services - Supervise closing agent, purchaser/seller follow-up and monitor act of sale.

5. TIME PERIOD OF LISTING AGREEMENT: This exclusive right of sale listing agreement shall begin when Auctioneer and Seller have signed this agreement. It shall continue through and include sale date. It shall then be extended for 30 days under the same Terms & Conditions. The post auction listing shall include signage, World Wide Web Advertising and the Multiple Listing Service. The benefits and obligations of this contract herein shall inure to and bind the respective, heirs, executors, administrators, successors, and assigns of the parties hereto. If an Agreement to Purchase and Sell is executed during the term of this Listing Agreement, the parties agree to extend the effective period of this Listing Agreement to include the closing date as provided for in the Agreement to Purchase, or any extension thereof.

Seller further agrees to pay Auctioneer the Auction Fee stated below on any sale of said property negotiated by Seller within 90 days after the expiration, extension, or termination of this contract with any party (or the nominee, representative or affiliate of such party) to whom said property was submitted during the term of this contract, including but not limited to: registered bidders, open house attendees, and prospects that have contacted Auctioneer for information. Auctioneer shall provide to seller a list of all prospects within 30 days of the event.

6. AUCTION FEE: The Auction Fee will be in the form of a 10% Buyer's Premium added to the Purchaser's final bid price and included in the total contract price. When the property is sold during the listing period through sale by auction or otherwise, Seller shall pay the Auctioneer the above mentioned Auction Fee,



from the total contract price whether the Purchaser is secured by the Auctioneer, by the Seller, by the Auction, or by any other person or means. If the property is sold through negotiation prior to or after the auction, the Auction Fee shall be deducted from the purchase price. Auction Fee is due and payable upon Act of Sale or in the case of Default as listed in Paragraph #11. The commissions reflected in this agreement have been negotiated only by the parties to the agreement.

7. INQUIRIES: Seller agrees to promptly disclose and refer to the Auctioneer all written or oral inquiries from brokers or prospects interested in Seller's property, to cooperate fully and not to obstruct the sale of the property during the term of this contract.
8. TERMS OF SALE: Seller agrees to sell the above listed property at auction for the reserve price of \$ _____ or any other price, or upon any other terms, as hereafter agreed upon. Auction shall be advertised and conducted ☐ Subject to Seller's confirmation ☐ Absolute above minimum, ☒ Absolute to the highest bidder. Title shall be transferred to Purchaser within 30 days of auction date or by contract date. Seller agrees to have this property included in a multi-seller/multi-property auction event.
9. ADVERTISING AND PROMOTION INVESTMENT: Auctioneer is authorized to place auction advertising in such media as Auctioneer selects, and provide necessary support, promotional assistance, supplies, and materials to produce an auction of superior quality. In consideration thereof, Seller agrees to pay a non-refundable flat fee of \$ 1,500.00 for these services. Seller hereby authorizes Auctioneer to install auction signs on listed property.
10. LIENS AND ENCUMBRANCES: Seller warrants that to the best of his knowledge, the only known liens and encumbrances against said property are as follows:

Mortgagor	Amount	Payment
_____	_____	_____
_____	_____	_____
Additional Liens, Judgments, Assessments and Lis Pendens:		
_____	_____	_____
_____	_____	_____

The seller agrees to hold the Auctioneer harmless in the event of any legal action as the result of any undisclosed liens, encumbrances or title defects.

11. DEFAULT BY PURCHASER: In the event the transfer of title to Seller's property is not completed because of default by Purchaser, Seller shall pay to Auctioneer one-half of the earnest money forfeited. However, the fee shall not exceed the full amount had the transaction closed.
12. DEPOSIT: Auctioneer or Escrow Agent is authorized to accept, give receipt for, and hold all monies paid or deposited. Deposits will be held in the Escrow Account.

In the event of an escrow deposit dispute and the Auctioneer is in doubt as to the disbursement of escrow funds, he shall have the right to release the money to a court of competent jurisdiction, which shall determine the rights of the parties involved in the dispute; but in no case, will this action waive the Seller's Responsibility of the Auction Fee to the Auctioneer.
13. ATTORNEY FEE AND COSTS: In connection with any litigation arising out of this contract, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.
14. LIMITATION OF LIABILITY: Auctioneer shall not be responsible for any damages, expenses, or other losses occurring by the high bidder at any Auction refusing to submit or sign a written offer and agreement confirming his bid, or refusing to perform on his agreement to purchase.

Seller understands that this agreement does not guarantee the sale of his property, but it does guarantee that the Auctioneer will make a sincere and honest effort to procure a sale for the Seller's described property.

In consideration of the efforts and expenditures by the Auctioneer, Seller shall indemnify the Auctioneer against all liability, loss and expenses, including reasonable attorney's fees and court costs that the Auctioneer may incur as a result of any claim or suit against the Auctioneer by any person for personal injury or property damage sustained by such person while on or about the herein above described premises, due to the condition of said premises or Seller's negligence.

15. TITLE GUARANTY: Seller agrees and warrants that he has the ability to satisfy all mortgages, liens, judgments and any other encumbrances and to deliver to the Purchaser a good and merchantable title, free and clear of all liens and encumbrances except those put on or assumed by the Purchaser as part of the purchase price. Seller agrees to hold the Auctioneer harmless in the event of Seller's inability to perform. Seller agrees to use auctioneer's appointed title agent, Warren Moulédoux, PLC, to provide closing services. Seller agrees to provide a Title Insurance Commitment showing title to be good and insurable. Real Estate taxes and rentals, if any, to be prorated to and excluding date of Act of Sale.

16. OTHER AGREEMENTS: No modification or change in this listing agreement shall be valid or binding upon the parties involved, unless it is in writing and executed by the parties to be bound thereby.
17. CONDITION OF PREMISES: Property to be sold "as is, where is", with the Seller and Auctioneer making no guaranties as to the condition of said property. Seller agrees to represent the true state of affairs with respect to the condition of the property and authorizes Auctioneer to disclose this condition to prospective Purchasers.
18. SPECIAL TERMS: _____
19. DISPUTE RESOLUTION/MEDIATION: If any disagreement or claim arises under this agreement and is not settled promptly in the ordinary course of business, the parties agree to submit the matter to non-binding Mediation, and if the parties still fail to voluntarily resolve it, then binding arbitration in accordance with the next paragraph.
20. ARBITRATION: If the parties are unable to resolve the disagreement or claim as provided in the above paragraph, and then such disagreement or claim shall be settled by binding arbitration. The arbitrator in such dispute shall be mutually selected by the parties, and then in accordance with the rules and regulations of the selected arbitrator and the laws of the State of Louisiana relative to arbitration. The parties shall be bound by the arbitrator's final decision. Judgment upon the award rendered may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorney's fees and other related expenses resulting from the arbitration. The terms of this Paragraph shall apply to all claims, disputes, controversies, and other matter at issue between the parties, arising out of or relating to this Agreement.

_____	by: _____	_____
PROJECT MANAGER	SELLER	DATE
_____	by: _____	_____
DATE	SELLER	DATE
_____	by: _____	_____
	SELLER	DATE
_____	by: _____	_____
	SELLER	DATE

SPERRY VAN NESS/SVN/GILMORE AUCTION & REALTY CO.

_____	Louisiana Auctioneer License #447
DAVID E. GILMORE	Louisiana Real Estate Brokers License #42445
_____	Mississippi Auctioneer License #378
DATE	Mississippi Auction Firm License #641F
	Mississippi Real Estate License #B-14307
	Texas Auctioneer License #00011136
	Alabama Auctioneer License #1832
	Arkansas Auctioneer License #1979
	Arkansas Real Estate Brokers License #PB00066681
	Oklahoma Real Estate Brokers License #149073

Necessary File Items

The following is a list of necessary file items that will enable SVN/Gilmore Auction & Realty Co. to professionally promote your property. Please try to be accurate and thorough as it may affect the final value of the real estate.

- | | |
|--|--|
| <input type="checkbox"/> Titles/Mortgage Documents | <input type="checkbox"/> Listing Agents (if applicable) (Name, Address, Phone) |
| <input type="checkbox"/> Title Insurance Policy | <input type="checkbox"/> Seller's List of Prospects |
| <input type="checkbox"/> Appraisal | <input type="checkbox"/> Keys/Alarm Codes |
| <input type="checkbox"/> Brief Description of Property | <input type="checkbox"/> Management Company (Name, Address, Phone) |
| <input type="checkbox"/> Survey | <input type="checkbox"/> Rent Roll & Expenses |
| <input type="checkbox"/> Location Map/Site Map | <input type="checkbox"/> Condo Documents (if applicable) |
| <input type="checkbox"/> Tax Bills | <input type="checkbox"/> Property Disclosure (addendum) |
| <input type="checkbox"/> Reserve Prices | <input type="checkbox"/> Leases/Tenant Information (Name & Phone) |
| <input type="checkbox"/> Real Estate Agency Disclosure | <input type="checkbox"/> Referrals |

Please provide these items upon acceptance of the Listing Agreement or shortly thereafter as we cannot effectively promote your property without this important information.