

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

In re:

CARL R. SAYERS
DBA DANBURY TOP SOIL CO.
AND
SUZANNE SAYERS,

: CHAPTER 11

DEBTORS

: CASE NO. 15-50870-AMN

CARL R. SAYERS
DBA DANBURY TOP SOIL CO.
AND
SUZANNE SAYERS,
MOVANTS

vs.

DEUTSCHE BANK NATIONAL TRUST COMPANY,
AS SUCCESSOR FOR SOUNDVIEW HOME LOAN
TRUST 2005-OPT4, ASSET BACKED CERTIFICATES,
SERIES 2005 OPT4;
READY CAP LENDING, LLC;
NEWTOWN SAVINGS BANK;
DEPARTMENT OF REVENUE SERVICES;
CITY OF DANBURY TAX COLLECTOR;
CITY OF DANBURY PUBLIC UTILITIES; AND
NEWELL FUNDING, LLC

RESPONDENTS
=====

**DEBTORS' AMENDED SECOND MOTION FOR ORDERS PURSUANT
TO 11 U.S.C. §363 AND FED. R. BANKR. P. 2002 AND 6004: (I) (A)
ESTABLISHING COMPETITIVE BIDDING PROCEDURES IN
CONNECTION WITH SALE OF DEBTORS' ASSETS; (B) SCHEDULING
AUCTION AND SALE HEARING AND ESTABLISHING OBJECTION
DEADLINE WITH RESPECT TO APPROVAL OF SALE; AND (C)
AUTHORIZING AND APPROVING FORM AND MANNER OF NOTICE
OF BIDDING PROCEDURES AND SALE HEARING; (II)
AUTHORIZING AND APPROVING SALE OF DEBTORS' REAL
ESTATE ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES AND INTERESTS;
AND (III) GRANTING RELATED RELIEF**

TO: THE HONORABLE ANN M. NEVINS ,
UNITED STATES BANKRUPTCY JUDGE:

The above-captioned debtors and debtors-in-possession (the "Debtors" or "Sellers"), by and through their undersigned attorneys, as and for their motion (the "Sale Motion") for the entry of Orders Pursuant To 11 U.S.C. §363 and Fed. R. Bankr. P. 2002 and 6004: (I) (A) Establishing Competitive Bidding Procedures In Connection With Sale Of Debtor's Assets; (B) Scheduling Auction and Sale Hearing and Establishing Objection Deadline With Respect To Approval Of Sale; and (C) Authorizing And Approving Form And Manner Of Notice Of Bidding Procedures and Sale Hearing; (II) Authorizing and Approving Sale of Substantially All of Debtors' Real Estate Free And Clear Of Liens, Claims, Encumbrances and Interests; and (III) Granting Related Relief, respectfully represents respectfully upon information and belief:

I. JURISDICTION

1. This Court has jurisdiction over this Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are sections 105, 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code"), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rule 6004-1 of the Local Rules of the United States Bankruptcy Court for the District of Connecticut (the "Local Rules").

II. INTRODUCTION AND BACKGROUND

2. On June 29, 2015 (the "Petition Date"), the Debtors commenced their reorganization case by filing a voluntary petition for the relief afforded by Chapter 11, Title 11, U.S.C. in this Court.

3. The Debtors are continuing in possession of their property and are managing their financial affairs as Debtors-In-Possession pursuant to §§1107 and 1108 of the Bankruptcy Code.

4. The Debtors are married individuals residing in Danbury, Connecticut. The Debtors commenced their bankruptcy case as a result of pending litigation including foreclosure. Carl Sayers is an army veteran, having served from 1962 to 1965. He has since worked in a number of entrepreneurial roles and presently operates his Danbury Top Soil business, a sole proprietorship. Suzanne Sayers had been employed in a number of jobs and had been working for Danbury Top Soil but is now retired.

III. THE DEBTORS' EFFORTS TO MARKET THE ACQUIRED ASSETS

5. On May 9, 2017 the Court granted the retention of Keller Williams Realty ("KW"), in connection with the marketing of the property located at 7, 9 and 13 Miry Brook Road (which may have been known as 33 and 37 Sugar Hollow Road) aka Sugar Hollow Road, Danbury, CT 06810 (collectively the "Property") for sale with an exclusive listing at the rate of five percent (5%) of the gross sale price of the Property.

6. On June 29, 2017, the Debtors filed a supplemental application to expand the retention of KW to include the marketing of additional properties located at 15 Miry Brook Road, 25 Miry Brook Road and 38 Miry Brook Road, Danbury, CT 06810.

7. During the course of the case, the Debtors and their most significant unsecured and secured creditors, engaged in a collaborative effort that contemplated a marketing period for the sale of the Property. If the Property was not sold after the marketing period, the parties agreed and it was represented to the Court that the Debtors would seek to conduct an auction sale of the Property. The Debtors filed a plan of reorganization that memorialized that process. During the course of that process, various objections were raised to the feasibility of the Plan. After further discussion and agreement with the major parties of the case and disclosure to the Court, the Debtors

requested an alternative path through an auction process following the expiration of the marketing period.

8. Consistent with that understanding, the Debtors filed an initial sale motion setting forth proposed bidding procedures on November 9, 2017. On or about November 14, 2017, the Debtors filed an application to retain Aaron Posnik & Co, Inc. (“Posnik”) as their auctioneer. A status conference was held on November 15 wherein the bidding procedures were discussed and the Court provided initial feedback regarding the proposed sale process, where the Court wanted the auction to take place, and other matters associated with the process. The Debtors stated through counsel that the Debtors had been relying on the auctioneer for much of the procedures that they had outlined and had hoped to use him as their auctioneer, but did not know if the auctioneer would assist the Debtors if the Court definitively ruled that the auctioneer (Paul Scheer, the President of Posnik) would essentially act more like a broker to assist the sale process rather than as the auctioneer. As Mr. Scheer was unavailable to attend the status conference on November 15, 2017 and, given the upcoming Thanksgiving holiday, the Court directed that an amended motion setting forth any new bid procedures be filed by December 1, 2017 with a continued hearing/status conference to be held on December 6, 2017.

9. Following the November 15 status conference, the Debtors attempted to engage Mr. Scheer to discuss the process and the Court’s comments and to crystallize a revised bidding procedure process. However, Mr. Scheer has had limited availability, in large part, due to the failing health of his wife, who was in the hospital. On November 29, 2017, Mr. Scheer indicated that he would not be able to assist with the auction if he was not going to be the person to conduct the auction. The Debtors then attempted to reach out to him again and their counsel was finally able to reach him. After further discussion, Mr. Scheer reconsidered and on Friday afternoon (December 1), he stated to Debtors’ counsel that he would assist the Debtors with the auction process regardless

of whether he conducted the auction or not. Several clarifications regarding the term of his proposed compensation were discussed to address questions raised at the November 15 conference, and some bidding procedures were discussed. However, insofar as Mr. Scheer had limited availability as he needed to be with his ill wife, the Debtors' counsel was unable to complete the discussion of all terms. Given the uncertainty regarding all the terms that had resulted from the incomplete discussion with Mr. Scheer, the late hour, and the Debtors' desire not to appear dilatory and procedural nature of the bid procedures, the Debtors hoped to articulate their view of the process and explain the situation to the Court at the conference scheduled for December 6. The major creditors appearing at the status conference in the case had no objection to this approach on December 6, 2017. In hindsight, a motion to extend should have been filed regardless, and the undersigned counsel has apologized to the Court that one was not filed and emphasized that no disrespect to the Court had been intended.

10. In any event, Mr. Scheer attended the status conference on December 6 telephonically. Debtors' counsel had hoped to articulate the difficulties and then use the existing motion with some modifications to be addressed at the hearing with Mr. Scheer in attendance, but the Court denied the initial motion and directed that the Debtors had until December 15, 2017 to file their amended motion setting forth their bid procedures for any proposed auction.

11. After the status conference on December 6, however, the Debtors were informed that Mr. Scheer had decided that he was not going to assist the Debtors with the auction. The Debtors attempted to reach out to Mr. Scheer to discuss it further, but sadly, learned that his wife passed away from cancer on Sunday, December 10, 2017. However, the Debtors subsequently reached out to other individuals who might assist them with the marketing of the Property.

12. On or about, December 29, 2017 the Debtors filed an application to retain Absolute Auctions & Realty, Inc. ("AAR") as their broker to assist in the marketing and sale of the Properties

at an auction and to help solicit and enhance interest in the Properties online and through traditional media sources.

13. The Court held a status conference on or about January 8, 2018 to consider the bidding procedures for the proposed auction and the applicants to retain AAR. The Debtor discussed the terms of several bidding procedures and the Court directed an amended motion to address these revisions be filed on or before January 24, 2018.

14. On January 9, 2018, the Court granted the application to retain AAR.

15. After marketing these properties without success and after substantial good faith negotiations and collaboration with the main creditors in the case, the Debtors have determined that it is in the best interests of their estate to pursue a sale of all or substantially all of their assets pursuant to § 363 of the Bankruptcy Code via an auction sale.

IV. PROPOSED SALE AND BIDDING PROCEDURES

16. The Debtors believe that it is in the best interests of their estate and creditors to pursue the proposed sale of certain properties under Bankruptcy Code §363. The Debtors believe that conducting an auction (the "Auction") of these properties would maximize the value for their estate.

17. The Debtors' properties hereinafter ("collectively referred to as the "Properties" or "Assets") are to be sold in the following order:

(a) 7,9,13 Miry Brook Road aka Sugar Hollow Road;

(b) 25 Miry Brook Road (Carl Sayers owns a 75% interest, but has been advised by his son Carl Sayers II, that he will consent to the sale by the Debtors' provided Carl Sayers II receives 25% of the net proceeds from the sale);

(c) 38 Miry Brook Road;

(d) 15 Miry Brook Road.

18. Subject to the provisions herein, the Debtors had to propose the Court conduct an auction of the Property within fifty (50) days after the order is entered approving bid procedures with an auction sale of these properties serially in the order set forth above free and clear of all liens and interests with closings to be conducted within 35 days after approval of the sale of any property.

19. However, AAR has suggested that an auction on April 11, 2018 at 1 pm (or a date in that time frame) if possible versus the end of March is preferable to maximize value by minimizing the potential for snow to affect the auction date, to ensure that snow on the Properties will have melted so that interested parties can more fully view the extent of the Properties, to avoid potential conflicts with family vacations near college spring break and Easter and to take advantage of the spring thaw for market sales (it is respectfully submitted that while spring begins on March 20, real estate sales tend to heat up a little more as the outside temperature increases). That said, the Debtors will accept the date that is selected by the Court.

20. If the Debtors are unable to reach an agreement with to the secured creditors with liens on a particular property, and the highest bid at Auction for a particular Property is insufficient to satisfy the secured claims, costs of sale, the broker or auctioneer's commissions and expenses, and certain other administrative expenses, then the Debtors seek authority to not accept a proposed bid for subsequent Court approval.

21. In addition, as the auction would be staggered so that each property is sold separately and in series in the order set forth above, if the total proceeds achieved after each sale are sufficient to satisfy all allowed claims and administrative claim in the case, the Debtors would have the right to cancel all subsequent sales of any remaining properties.

22. After the sales are concluded, the Court could then dismiss, convert the case if there are insufficient proceeds to fund a plan, or if there are funds available for distribution to creditors, dismiss with a payment to all creditors holding allowed claims following the appropriate priority

scheme of the Bankruptcy Code or an amendment to the plan and disclosure statement and allow the Debtors to proceed to confirmation. Alternatively, and if the Court finds or prefers that the Debtors seek approval of an amended disclosure statement and confirmation consistent with this proposed sale, the Debtors will promptly prepare and file same. Given the additional administrative costs and the facts of this case and the active involvement of creditors throughout, the Debtors respectfully posit that that is not necessary, but they will abide by any order of the Court.

23. The Properties are presently subject to the liens as set forth below:

(a) 7,9,13 Miry Brook Road aka Sugar Hollow Road:

- i. Mortgage to Newell Funding LLC (\$1,700,000.00 – blanket lien believed to have been paid off but not released – release is being sought by the Debtors);
- ii. Mortgage to Ready Cap Lending (\$2,110,443.20 as of 10/13/17 plus attorneys' fee and cost);
- iii. Tax Liens City of Danbury (\$387,525.20 as of 12/31/17)

(b) 25 Miry Brook Road:

- i. Mortgage to Newtown Savings Bank (\$253,183.58 as of 10/06/17)
- ii. Tax Liens City of Danbury (\$2,071.38 as of 12/5/17)
- iii. Water Liens City of Danbury (\$2,662.49 as of 12/5/17)

(c) 38 Miry Brook Road:

- i. Mortgage to Newell Funding LLC (\$1,700,000.00 – blanket lien believed to have been paid off but not released – release is being sought by the Debtors);
- ii. Mortgage to Deutsche Bank National Trust Company, As successor for Soundview Home Loan Trust 2005-OPT4, Asset –Backed

Certificates, Series 2005 OPT 4 – serviced by Ocwen
(\$317,582.69 as of 12/31/17);

iii. Tax Liens to City of Danbury (\$2,035.18 as of 12/5/17)

(d) 15 Miry Brook Road:

- i. Mortgage to Newell Funding LLC (\$1,700,000.00 – blanket lien believed to have been paid off but not released – release is being sought by the Debtors);
- ii. Tax Liens to City of Danbury (\$98,627.79 as of 12/5/17).

A. THE BIDDING AND PARTICIPATION PROCESS

24. AAR, with the Debtors' assistance will assist with the auction and prequalify the bidders ("Potential Bidders"). The principal prequalification requirements will be

A. a statement signed by the Potential Bidder that within 24 hours after a sale is conducted, the highest bidder is required to supplement its deposit so that they have paid to the Debtors amount refundable deposit equals ten percent (10%) of the total purchase price and sign any necessary Purchase & Sale Agreements prepared by the Debtors. If for any reason the Seller does not timely perform the sole remedy shall be the return of Buyer's down payment the purchase consideration shall be paid by the Potential Bidder in full upon closing time being of the essence; In addition to paying the winning and successful bid amount to the Debtors at closing, any winning bidder shall also be a responsible to pay an additional fee, called a buyer's premium, equal to five percent (5%) of the winning and successful bid amount to and for the benefit of Absolute Auctions and Realty, Inc. at closing, all time being of the essence. A buyer's premium is a common fee in all types of auctions. Any bid cannot contain any financing contingencies of any kind; if the offer of such Potential Bidder is deemed to be the Second Best Bid (as defined below), that Potential

Bidder's offer is irrevocable until 15 days after the date that the Successful Bidder is required to close; and the Potential Bidder's board of directors (or comparable governing body) has authorized the submission, execution, delivery and closing of the form of purchase agreement; and

B. that the Potential Bidder acknowledges that the Properties are being sold "AS IS" and "WHERE IS" without any representations or warranties; and all registrants will be required to complete all paperwork to participate in the auction including agreeing to the terms of the auction, provide government issued identification, good funds for the deposit in the the required amount per property and proof of funds to cover at least the minimum bid for each Property they desire to bid on. Additionally, online only registrants will be required to have all documents notarized and mailed in to the AAR office along with good funds in the form of a bank check.

C. tender a Deposit in the form of a certified or bank check immediately available funds payable to the order of Carl and Suzanne Sayers, as escrow agent to be held (but not necessarily deposited) by Debtors' counsel, in an amount equal to the following based on the property they intend to bid on (the "Deposit").

- a. 7, 9 and 13 Miry Brook - \$50,000.00
- b. 25 Miry Brook - \$25,000.00
- c. 38 Miry Brook - \$25,000.00
- d. 15 Miry Brook - \$25,000.00

AAR suggests that a bidder on 25, 38 or 15 Miry Brook only needs to post a single \$25,000.00 deposit to bid on any one of these properties to enhance the pool of potential bidder for each property, given that any Successful Bidder will be required to post sufficient funds to raise the deposit to equal ten percent of the purchase price within twenty four hours after the sale.

The Deposit of the Successful Bidder will be applied as a credit against the purchase consideration for the Successful Bidder. If the Successful Bidder is unable to close the sale of the Property they are buying by the closing date selected by Debtors counsel time being of the essence, the deposit paid by the Successful Bidder shall be declared forfeited by the Successful Bidder and release to Debtors' estate free and clear of any claims and interests. At such point, the holder of the Second Best Bid will have 48 hours to supplement its deposit so that it has paid ten percent of its bid as a deposit and twenty-one (21) days to close, time being of the essence. If the Second Best Bid is unable to close the sale of the Property they are buying by the closing date selected by Debtors counsel time being of the essence, the deposit paid by the Second Best Bid shall be declared forfeited by the Second Best Bidder and released to Debtors' estate free and clear of any claims and interests. The Deposit of the Second Best Bidder (defined below) will be refunded (without interest) no more than 15 days after the date that the Successful Bidder is required to close (unless, at that time, the sale is completed with the Second Best Bidder, in which case such Deposit will be applied as specified in the preceding sentence). The Deposits of all other Potential Bidders will be refunded (without interest) not later than five business days after the Sale Hearing by law firm check or bank check if bank check was tendered. Debtors' counsel will not refund any deposit by wire transfer or reissue bank or certified checks.

The Debtors note that they had been suggesting the following higher amounts for deposits:

- a. 7, 9 and 13 Miry Brook - \$100,000.00
- b. 25 Miry Brook - \$27,000.00
- c. 38 Miry Brook - \$30,000.00
- d. 15 Miry Brook - \$20,000.

However, in its professional judgment, AAR has suggested that the Debtors recommend a reduced amount if the Court will reconsider it to maximize the pool of potential bidders. The Debtors will abide by any decision of the Court in this regard.

25. The Debtors will prepare a package of information concerning the Property that will be available to any interested bidder on AAR's website or upon request prior to the auction. AAR has prepared an overview of certain aspects of the marketing and auction process which is attached as Exhibit A. The proposed advertisements in material respects are attached hereto as Exhibit B (although the amount of the deposits will need to be adjusted based on what the Court determines is appropriate as set forth in Paragraph 24). The Debtor proposes that bidding be conducted in Court and online via the internet. Internet bidding allows the potential to accommodate more bidders. Phone bidding on the other hand requires a phone attendant per bidder, making it less efficient so the Debtors do not propose any phone bidding.

Internet Bidders will register similarly to live bidders but will have their paperwork notarized, registering with the website and for the auction on www.AARbids.com. Once their paperwork and funds are received, AAR will approve them for bidding.

Bidders will have the ability to place absentee bids online and/or bid live during the auction.

Online Bidders, if bidding would log into their account, click on the auction then on the bidding applet. This applet will open a second screen and shows up-to-date changes to the bids. It will also show bidders which lot is open for bidding so they can follow along just like those bidding in person.

The applet will show the "asking price" which the online bidder can bid or they can type in a bid amount above the asking price to place a bid.

Bids placed online are not automatically accepted. They are relayed to the person calling the bids. This is so that tow bids are not accepted at the same time for the same amount. For example, if the asking price is \$100,000 and the same bid is made in the Court in the room and online, the person calling the bid would indicate which bid is being accepted so the other bidder has the opportunity to raise their bid to the next amount.

In order to accommodate online bidding and synchronize it with in Court bidding, AAR will require either access to the internet or if not available, the ability to create its own internet hotspot and the ability to use its phones in the Courtroom to coordinate with its office. AAR will also need the ability to use its computer laptops and if the Court desires, can connect the screen showing the live bidding to a monitor for the Court (but not the bidders) to see.

26. The Debtors also propose that there be the following minimum bids established for each property:

- a. 7, 9 and 13 Miry Brook - \$1,100,000.00
- b. 25 Miry Brook - \$270,000.00
- c. 38 Miry Brook - \$300,000.00
- d. 15 Miry Brook - \$160,000.00

27. The Debtors also request that bidding increments begin at \$15,000 for 7, 9 and 13 Miry Brook, and \$3,000 for other properties, subject to the Court or the Debtors requesting that the bidding increments be increased or decreased at varying times of the auction to spur or enhance competitive bidding.

28. The Debtors notes that the minimum bid for each property is not the strike price, i.e. the amount that each property will be sold for, but has been established to maximize competitive bidding. The Debtors have engaged in discussions with counsel for Redicap, the City of Danbury

and Ocwen. With respect to 7, 9 and 13 Miry Brook, the Debtors will request approval of the highest and best bid that at the end of the auction that is greater than the minimum bid with the proceeds to be paid as follows: Eleven percent (11%) of gross proceeds under \$2 million will be carved out for the benefit of the estate (i.e. conveyance taxes, allowed auctioneer/broker fees, closing costs, allowed attorneys' fees, US Trustee fees, etc.). For any amount received for this property above \$2.1 million, the carve-out for the estate would increase to 39.5% (to account for estimated fed and state taxes). If the property sells for enough to satisfy all secured claims on the property (after carve-outs set forth herein) the remaining proceeds would be retained by the estate. After the carve-outs, the proceeds would first be used to pay real estate taxes and then to secured creditors (up to the allowed amount of its claim) in full satisfaction of its claims.

29. With respect to 15 Miry Brook, the Debtors will sell that property for the highest and best price realized from the auction sale that exceeds the Minimum Bid.

30. With respect to 25 and 38 Miry Brook, the Debtors have a strike price that will permit the sale of each property after taking into account the balance of existing mortgage and liens and tax considerations. The Debtors only intend to seek approval of the highest and best bids of these properties if they are each sufficient to pay off in full the existing mortgage and liens on that property, estimated income taxes and provide sufficient funds to pay conveyance taxes, allowed auctioneer/broker fees, closing costs, allowed attorneys' fees related to the sale and auction and US Trustee fees.

31. The Debtors also request the right to adopt such other rules for the Bidding Process that will better promote the goals of the Bidding Process not inconsistent with the order of the Court.

B. AUCTION

32. The Auction of the Properties will take place on a date to be scheduled by the Court at the bankruptcy court, which the Debtors propose to occur on or before fifty (50) days from the date the Court enters an order approving the bidding procedures for the sale. .

33. In connection with bidding, the Debtors and their representatives may request additional financial or other relevant information from bidders. Upon conclusion of the Auction, the Debtors, in consultation with counsel, shall review each Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale. Thereafter, the Sellers shall identify the highest or otherwise best offer for the Assets (the "Successful Bid") and the second highest and best offer for the Assets (the "Second Best Bid"). Following the conclusion of the Auction, the successful Bidder may be required to supplement its deposit so that the deposit agreement equals no less than 10% of the successful Bidders' purchase price. At the Sale Hearing following the auction, the Seller shall present the Successful Bid and the Second Best Bid to the Bankruptcy Court for approval and contingent approval, respectively.

F. ACCEPTANCE OF BIDS

34. The Debtors intend to sell the Assets for the highest and otherwise best Bid received as determined by the Sellers and approved by the Bankruptcy Court as set forth herein. The Debtors will be deemed to have accepted a bid only when the bid has been approved by the Bankruptcy Court at the Sale Hearing and accepted by the Debtors as set forth herein. The Debtors are prepared to share the strike price for each property with the US trustee immediately before the auction if the US Trustee requests. As noted above, only 25 and 38 Miry Brook have reserve or strike prices, with the minimum bids and the carve-outs on 7, 9 and 13 Miry Brook sufficient to permit the sale for the highest and best offer above the minimum bid.

G. SALE HEARING

35. The Debtors have requested that the Sale Hearing take place following the conclusion of the auction of the properties, at the Bankruptcy Court in New Haven. Objections, if any, to the Sale would be then required to be filed in the Bankruptcy Court and served so as to be received by counsel to the Debtors no later than one business day before the hearing by 4:00 p.m. (Eastern Time). The Sale Hearing may be adjourned or rescheduled without notice by an announcement of the adjourned date at the Sale Hearing. At the Sale Hearing, the Seller shall present to the Bankruptcy Court for approval the Successful Bid and the Second Best Bid for the Acquired Assets.

36. Following the Sale Hearing approving the sale of the Assets to a Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Second Best Bid, as disclosed at the Sale Hearing, shall be deemed to be the Successful Bid and the Seller shall be authorized to effectuate such sale without further order of the Bankruptcy Court.

H. RETURN OF DEPOSIT

37. Upon completion of the Auction, the Deposits of all other Bidders, other than the Successful Bidder and the Second Best Bidder, shall be returned to such other Bidders. The Deposits of the Successful Bidder and the Second Best Bidder shall be held in escrow until 15 days after the date that the Successful Bidder actually closes on its purchase. The Deposits of all other Potential Bidders will be refunded (without interest) not later than five business days after the Sale Hearing by law firm check or bank check if bank check was tendered. Debtors' counsel will not refund any deposit by wire transfer or reissue bank or certified checks

I. RESERVATION OF RIGHTS

38. The Debtors shall retain all rights to the Assets that are not subject to a bid accepted by the Seller and approved by the Bankruptcy Court at the Sale Hearing (as hereinafter defined).

39. The Debtors reserve the right to modify the Bidding Procedures, as necessary or as they deem appropriate to maximize value for their estate and creditors. The Debtors believes that the proposed procedures are appropriate and would maximize recoveries for the Debtors' estate.

VI. BASIS FOR RELIEF REQUESTED

A. APPROVAL OF THE SALE IS WARRANTED UNDER BANKRUPTCY CODE SECTIONS 105(A) AND 363(B)(1)

40. Bankruptcy Code section 363(b)(1) provides that "[t]he Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Moreover, Bankruptcy Code section 105(a) provides that "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

41. Assets of a debtor may be sold outside of the ordinary course of business, pursuant to Bankruptcy Code section 363(b)(1), if a sound business purpose exists for doing so. See, e.g., Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983). Bankruptcy courts have a great deal of discretion in deciding whether to authorize a sale of a debtor's assets outside of the ordinary course of business. See In re Chateaugay Corp., 973 F.2d 141, 144 (2d Cir.1992). In addition to the notice and hearing requirements of Bankruptcy Code § 363, the widely followed and liberal business justification test has been applied by courts in the Second Circuit in cases where a debtor wished to conduct a pre-confirmation sale of all or substantially all of its assets. See, e.g., Committee of Equity Security Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983), In re Thomson McKinnon Sec., Inc., 120

B.R. 301, 307 (Bankr. S.D.N.Y. 1990; In re Oneida Lake Dev., Inc., 114 B.R. 352, 355-56 (Bankr. N.D.N.Y. 1990)

42. The Debtors have determined that an Auction sale with competitive bidding will maximize the value of the Property. The Property is the most valuable assets of the Debtors' bankruptcy estate and has already been subject to extensive marketing efforts. Nevertheless, the sale of the Assets would be subject to competing bids, thereby enhancing the Debtors' ability to receive the highest and best value for their business. Consequently, the fairness and reasonableness of the consideration to be received by the Debtors would ultimately be demonstrated by a "market check" through the Auction process, which is the best method to establish whether a fair and reasonable price is being paid. See also, Stephens Indus., Inc. v. McClung, 789 F.2d 386, 389 (6th Cir. 1986) (following Lionel; In re Thomson McKinnon Sec., Inc., 120 B.R. 301, 308 (Bankr. S.D.N.Y. 1990). In evaluating these and other pertinent factors, a court should bear in mind that the overriding goal is "to further the diverse interests of the debtor, creditors and equity holders, alike." Lionel, 722 F.2d at 1071. The business judgment of a debtor in possession is entitled to great deference. See In re Borders Grp., Inc., 453 B.R. 477, 483 (Bankr. S.D.N.Y. 2011). Just as a corporate debtor in possession generally satisfies the business judgment standard if "the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company", In re Integrated Res., Inc., 147 B.R. 650, 656 (Bankr. S.D.N.Y. 1992) (quoting Smith v. Van Gorkom, 88 A.2d 858, 872 (Del. 1985)), the Debtors submit that they too have acted on an informed basis, in good faith and in the honest belief that the proposed action negotiated with major constituencies in the case taken is in the best interests of their estate. "Courts should not generally interfere with business decisions absent a showing of 'bad faith, self-interest, or gross negligence.'" Borders, 453 B.R. at 482 (quoting Integrated Res., 147 B.R. at 656).

The Debtors posit that they have exercised their sound business judgment in good faith in seeking this relief and believe the instant process is the most efficient and quickest way to effectuate it.

43. The Debtors have considered different options for the disposition of the Property, believe an auction is the best opportunity for the estate to realize a benefit rather allowing the Property to be foreclosures under Connecticut law. The Debtors have also made determinations regarding the strike price that reflects a reasonable balance of for approval of sales and the goal of maximizing the participation of potential bidders. Further, the bidding procedures provide appropriate procedural safeguards to ensure that all interested parties have the opportunity to review the bid process. All creditors will receive notice of this Sale Motion and, as a result, will receive notice of the Auction, the bidding procedures, and the Sale Hearing. In light of the circumstances, such notice is reasonably calculated to provide timely and adequate notice to the Debtors' major creditor constituencies, those parties most interested in this case, those parties potentially interested in bidding on the properties, and others whose interests are potentially implicated by the proposed Sale.

44. The Debtors request authorization to sell the properties free and clear of liens, claims, encumbrances, and interests (the "Liens"). The Debtors do not believe that there are any liens on the properties that will not be satisfied at a sale or the properties will not be sold. Bankruptcy Code § 363(f) authorizes a debtor to sell property under section 363(b) "free and clear of any interest in such property of an entity other than the estate" if one of the following conditions is satisfied:

1. applicable non-bankruptcy law permits the sale of such property free and clear of such interest;
2. such entity consents;

3. such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
4. such interest is in bona fide dispute; or
5. such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

45. Applicable case law provides that a sale of a debtor's assets free and clear of all liens, claims, encumbrances, and interests is permissible under section 363(f) as long as the liens, claims, encumbrances and interests attach to the net proceeds of the sale. Folger Adam Security, Inc. v. DeMatteis/MacGregor, JV, 209 F.3d 252, 259 (3d Cir. 2000) ("The holdings of the courts suggest that any interest in property that can be reduced to a money satisfaction constitutes a claim for purposes of section 363(f) and, therefore, attaches to the proceeds of the sale."); See 11 U.S.C. § 363(f); In re Elliot, 94 B.R. 343, 345 (E.D. Pa. 1988) (§ 363(f) is written in the disjunctive; court may approve sale "free and clear" provided at least one of the subsections is satisfied).

B. The Bidding Procedures Are Reasonable and Appropriate

46. The Debtors believe that the bidding procedures will ensure that the bidding process with respect to their properties are fair and reasonable and will yield the maximum value for their estate and creditors. The bidding procedures provide for an Auction, and the bidder that submits the highest or otherwise best offer at the Auction will be selected.

VII. WAIVER OF RULE 6004 STAY

47. Because the relief requested herein is essential to prevent continued and irreparable harm to the Debtors and their estate, and is necessary to implement the Auction, the Debtors submit that cause exists for a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) to the extent applicable.

X. NOTICE AND HEARING

48. A hearing to approve the Bidding Procedures and other procedural aspects concerning the Sale Motion has been previously scheduled by the Court to be held on January 29, 2018 at 2:00 p.m. at U.S. Bankruptcy Court, District of Connecticut at New Haven, 157 Church Street, 18th Floor, New Haven, CT.

49. A copy of this Sale Motion, together with its exhibits, has been provided via e-mail, facsimile or postage prepaid mail to the Office of the United States Trustee for the District of Connecticut; and all parties who have filed a notice of appearance in this case. The Debtors will serve the Sale Motion to all scheduled creditors upon entry of the Bidding Procedures Order. The Debtors respectfully submit that no further notice of this Motion is needed or required.

WHEREFORE, the Debtors respectfully request that the Court enter the proposed Bidding Procedures Order, substantially in the form attached hereto as Exhibit "C," enter the proposed form of Sale Order, substantially in form attached hereto as Exhibit "D," and grant the Debtors the relief requested herein and such other and further relief as may be just and proper.

THE DEBTORS
CARL SAYERS
SUZANNE SAYERS

By: /s/ Matthew K. Beatman
Matthew K. Beatman (ct08923)
Zeisler & Zeisler, P.C.
10 Middle Street, 15th floor
Bridgeport, CT 06604
Telephone: 203-368-4234
Email: mbeatman@zeislaw.com



REAL ESTATE AUCTION
MARKETING PROPOSAL

Prepared by: Jennifer Mensler-Gableman,
CAI, ATS & Paul Stansel, CAGA
Absolute Auctions & Realty, Inc.
45 South Avenue | P.O. Box 1739
Pleasant Valley NY, 12569
845-635-3169 x102 | Fax: 845-635-5140
jennifer@aarauctions.com

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EXECUTIVE SUMMARY

Thank you for the opportunity to present the Absolute Auction team's capabilities relative to the sale of four (4) Danbury, CT properties. Our team is well positioned to provide you with the most comprehensive services available with the goal of maximizing the proceeds from the sale of the properties.

Our efforts will be focused on marketing the property to both targeted prospects and broadly, as well as, to the global market for the express purpose of selling the properties to qualified buyers at the highest possible fair market price.

This proposal outlines our approach to marketing and selling the four Danbury, CT properties assigned to the sale by the Seller. We are confident that our disciplined marketing approach to execution of the targeted marketing campaign, combined with our auction and real estate experience will allow us to produce the desired results for the Seller. The anticipated results of our efforts are as follows:

- To sell the property at a fair market, arms length price acceptable to the Seller.
- Conduct a highly transparent marketing and sales process leveraging the auction method of marketing. While we are experienced in all types or combinations of auction methodologies, we propose the following methodology be deployed on this project:
 - Public auction with bidder qualification requirements
- Market and present the assets globally to qualified individuals, real property professionals and investors
- Maximize proceeds from the sale of properties
- Act at the direction of the Seller to achieve any additional property disposition goals

TEAM STRUCTURE

- Absolute Auction & Realty, Inc. will be responsible for oversight of the sales and marketing teams, property showings, logistics, auction execution and exclusively representing the Seller and property in all transactions.



PROPERTY/AUCTION DETAILS

1. Sugar Hollow – 7, 9, 13 Miry Brook Road, Danbury, CT
Improved industrial property
2. 15 Miry Brook Road, Danbury, CT
Light industrial vacant land
3. 25 Miry Brook Road, Danbury, CT
1958 cape home on 1.1 acres. Mixed zoning of industrial and residential
4. 38 Miry Brook Road, Danbury, CT
1850 farm style home on 1.932 acres of residential with potential commercial rezoning.



AUCTION SOLUTION

Our proprietary bidding platform thru AARbids.com

Broker/Auctioneer believes that the auction method of marketing will deliver fair market value for this unique asset. Benefits of the auction method of marketing include:

- Auctions create a sense of urgency
- All interested parties compete - driving prices upward
- Approved Bidders have made deposit & signed terms prior to auction start
- Convenient to bid anytime, anywhere
- Highest possible fair market value achieved
- No Seller-paid Commission (Compensated by a 'Buyer's Premium')
- No contingencies (Every tract is sold "as is, where is" – no exceptions)
- Highest bidder tenders their offer on a 'Contract for Purchase & Sale'
- 14-day closing or less, "time is of the essence"



FULL SERVICE AUCTION MARKETING COMPANY



- ☐ Auction Services
- ☐ Conventional Sales Methods
- ☐ National and Global Marketing Campaigns
- ☐ Website Development and Implementation
- ☐ Internet Marketing
- ☐ Search Engine Optimization
- ☐ Proprietary Buyer Database
- ☐ In-House Advertising Firm – AARauctions Marketing Services
- ☐ *Over 60 years of Quality, Reputation and Experience in the Auction Method of Marketing*
- ☐ Proprietary bidding platform
- ☐ Leaders in technology
- ☐ Professional photographing - High resolution, clear & crisp images.



MARKETING STRATEGY

Broker/Auctioneer recommends the auction method of marketing to maximize return on investment to stakeholders and to arrive at the current fair market value on the date of the sale. Every step in the marketing and sales process will be strictly controlled and documented to ensure transparency to all parties and the Seller.

The uniqueness of the property provides the ideal conditions for the use of the transparent auction method of marketing. If the proposed marketing campaign is executed, the resulting auction will provide a time definite sale and fair market value of the property on the date of the auction.

These are the auction options recommended for these properties:

1. Sugar Hollow – 7, 9, 13 Miry Brook Road, Danbury, CT

1. Selling @ or Above \$1.1 million
2. Deposit for registration is \$100,000

2. 15 Miry Brook Road, Danbury, CT

1. Selling @ or Above \$160,000
2. Deposit for registration is \$16,000

3. 25 Miry Brook Road, Danbury, CT

1. Starting bid of \$270,000 with unknow reserve
2. Deposit for registration is \$27,000

4. 38 Miry Brook Road, Danbury, CT

1. Starting bid of \$300,000 with unknown reserve
2. Deposit for registration is \$30,000



POWER OF THE POSTCARD

- ☐ Targeted local mailing
- ☐ Makes an immediate impression
- ☐ More people respond to postcard mailings than any other type of mailings
- ☐ Postcards are less likely to be thrown away as junk mail, nothing to open, easy to view information on the card
- ☐ Puts action into the customers hands – talking directly to them about something that matters, their neighborhood, community, etc.
- ☐ Cost effective
- ☐ Because our in-house design team has won multiple national and state advertising awards, you can feel confident that your asset(s) will get the promotion it deserves.



MEDIA ADVERTISING

The Finest Things in the World Sell at Auction, Why not Your Property?

Fast & Efficient, Pay No Commission!

The Benefits of the Auction Method to YOU:

- You approve the final bid
- You do not pay commission
- You offer as is on Your terms
- You approve the Marketing investment
- You determine the date your property sells

We do all the work to follow Your plan
We obtain our commission from the Buyer
We build a special webpage for your property
We design the marketing Plan for Your approval
We place all marketing, MLS, agent notifications
We arrange controlled showings pre-approved by You

The Advantages of the Word "No."

- No "Ceiling" on price
- No lengthy negotiations
- No negative bargaining of price
- No contingencies after the price is determined
- No unnecessary holding costs: Maintenance, taxes, insurance

The Advantages of the Word "Yes"

- Yes, we pre-qualify bidders
- Yes, we are members of the MLS
- Yes, Auctions creates a sense of urgency
- Yes, Auctions create actions that benefit You
- Yes, price is determined by competitive bidding
- Yes, we will work with your existing Broker/Agent
- Yes, we share our commission with the Selling Agent

Why "Not & wait" when you can Auction for the highest possible fair market value now? If You are a motivated Seller in a position to Sell, Call for a free confidential consultation 845-635-3169, option 7

We have sold over 26,000+ properties at Auction since 1989

AARauctions.com

Serving your buying and selling needs in the Hudson Valley since 1989

Absolute Auctions & Realty, Inc.
45 South Ave., Pleasant Valley, NY 145-635-3169
info@AARauctions.com www.AARauctions.com

ATS **NAA** **AAR**

Our media campaigns are designed to capture the buying public's attention and focus it directly on your property. This is the single most important aspect of the entire process. Without the proper advertising, you will not reach the market and will not have prospective buyers to work into the system. Most of your assets will be advertised on a National, Regional and Local level to insure more than adequate market coverage. Some might command a Global campaign and others just a regional and local campaign. Either way, our award winning design team produces ads that capture the markets attention and in turn, brings buyers to the table.

REAL ESTATE AUCTION
Executor says SELL!

Online Auction Ending
Wednesday, June 4 @ 1:01PM
46 West Lake Drive, Valhalla
3 bedrooms, 1.5 baths w/many updates
Buy at your price!
Showing by appt. Contact Agent:
Jennifer Mensler 845-204-8252
Details & Photos:

AARauction.com
We Can SELL Yours! 800-243-0061

ABSOLUTE AUCTION
**No Minimum, No Reserve,
Sells Regardless of Price
to the Highest Bidder!**

Online Auction Ending
Wednesday, May 7 @ 1:01PM
Fantastic location - close to Parkway
47,220 sqft Racquet Club including
10+ acres Multi-Sport Facility
190 Old Sylvan Lake Rd, E. Fishkill
Buy at your price!
Showing by appointment. Contact Agent
Jennifer Mensler 845-204-8252
Details & Photos:

AARauction.com
We Can SELL Yours! 800-243-0061

CAPTURING THEIR ATTENTION

Our ads are designed to grab the readers' attention with stunning visuals that make the ad stand out in a crowd. Our award winning designs combine graphics and text that grab the attention of prospective buyers and each one is custom tailored for each property.

FOCUS THEIR ATTENTION

Once we have their attention, we focus it on the highlights and intriguing aspects of the asset(s). Pictures of the Asset(s) and carefully thought out text focus their interest on finding out more. We give them as much information as possible, and are available to assist with additional questions via email or phone.

KEEP THEIR ATTENTION

We make it easy for them to find out more about the asset(s). They can call or visit our website for more details. We find that nearly half of all inquiries come via the web.

ADDITIONAL SERVICES

SEARCH ENGINE OPTIMIZATION



Search Engine Optimization (SEO) is critical to the success of internet marketing. Our SEO experts will make sure that you are receiving the highest amount of web traffic possible by being found on major search engines such as Google. Absolute Auctions integration with 3rd party companies like auctionservices.com, auctioneers.org, auctionzip.com, Facebook, etc. gives you the additional insurance that your assets are being viewed by the internet masses.

PUBLIC RELATIONS



Our Public Relations department will create and distribute a press release to targeted publications and local, regional, and national news mediums. This is a great form of free advertising to potential buyers.



MARKETING BUDGET

Location	Week	Ad Type	Cost
Postcard mailing	Week 1	P	2,500.00
InfoUSA.com purchased mailing list			1,000.00
The Hour – Fairfield (\$250 per week)	Week 2, 3, 4	D	750.00
Email Blasts (To approx. 45,000 subscribed emails)	Week 1, 3 & 4	I	150.00
Internet Web Page	Month	I	300.00
Facebook/Social Media	Month	I	150.00
Hartford Courant (\$300 per week)	Week 2, 3 & 4	D	900.00
LoopNet.com	Month	I	500.00
New York Times (\$500 per week)	Week 2, 3 & 4	D	1,500.00
News-Times (\$250 per week)	Week 2, 3 & 4	D	750.00
Photos & Property Sign (Large Printed Signs)	Week 1	D	2,000.00
Wall St. Journal (\$500 per week)	Week 2, 3 & 4	D	1,500.00
		Total:	12,000.00



RECOMMENDED TERMS

TIME FRAME

Broker/Auctioneer is prepared to begin work immediately on your project.

Approximately 60-90 days prior to the chosen auction date we will schedule a 30 day window of opportunity to view and inspect the property through a formalized process that treats all prospective Buyers in a very professional and courteous manner.

AUCTION LOCATION

The auction is to be held live at the U.S. Bankruptcy Court, New Haven, CT with online bidding available to those unable to attend in person.

AUCTION REGISTRATION

All registrants will be required to complete all paperwork to participate in the auction including agreeing to the terms of the auction, provide government issued identification, guaranteed funds of the required amount per property and proof of funds to cover purchase price. Additionally, online only registrants will be required to have all documents notarized and mailed in to the AAR office along with guaranteed funds in the form of a bank check.

AUCTION DEPOSIT

All registrants will be required to provide a deposit, specific to the property they are interested in, in the form of cash, bank check made out to the attorney's law firm or by wire transferring the funds to the attorney's law firm. In the event that a bidder is not the successful high bidder, their funds will be returned to them. If funds were wired, they will be returned in the form of an attorney escrow check.

TERMS & CONDITIONS

The terms and conditions of the auction sale and purchase of any property shall be governed by the Contract for Sale of Real Estate, herein called Purchase and Sale Agreement. The Purchase and Sale Agreement form shall be made available from the Broker/Auctioneer and should be reviewed prior to the auction. No changes or alterations to the Purchase Agreement will be made. The high bidder(s) will be required to sign the Purchase Agreement immediately upon conclusion of the auction.



RECOMMENDED TERMS (CONT)

AUCTION DOWNPAYMENT

Within 24 hours, the high bidder is required to place ten percent (10%) of the total purchase price (which includes the Buyer's Premium) in a non-refundable down payment and sign the Purchase & Sale Agreements. The balance of the purchase price shall be due at closing. A Buyer's Premium equal to five percent (5%) of the high bid amount will be added to the high bid and included in the total purchase price. If for any reason the Seller does not perform the sole remedy shall be the return of Buyer's down payment.

CLOSING & POSSESSION

Closing will take place within thirty (30) days after auction day. Possession will be delivered at closing.

BROKER PARTICIPATION

No Broker Participation fee will be given at this auction.



RESPONSIBILITIES

SELLER:

- Seller shall pay all real estate and ad valorem taxes due on the property. All taxes shall be pro-rated to the date of closing.
- Seller will provide a current survey. The type of survey performed shall be at the Seller's option and sufficient for providing deletion of survey exceptions in the title insurance policy which shall be at the buyer's option and expense.

AUCTIONEER:

- Oversight of the sales and marketing teams
- Broker/Auctioneer will provide weekly electronic updates outlining the status of the marketing campaign, prospect generation results and overall status updates.
- In addition to weekly updates, our team will provide regular telephone and in-person communication as requested and agreed upon in the Broker/Auctioneer Agreement. The Seller will be made aware of all variables impacting the sale of the property.
- Will track and log incoming telephone and electronic leads.
- Property showings
- Logistics
- Auction execution
- Exclusively representing the Seller and property in all transactions



FEE STRUCTURE

Commission

Our fee is paid by the Buyer in the form of a 5% Buyer's Premium.

Marketing Fees

The marketing campaign will be funded by the Seller upon execution of the Broker/Auctioneer Agreement in advance of the commencement of marketing plan execution. Seller shall deposit with Broker/Auctioneer \$12,000.00 dollars ("Marketing Budget") to pay marketing and other expenses. Expenses may include but are not limited to advertising, video production, photography, preparation and production of auction brochures, signage, mailings, postage, the preparation and duplication of bidder's packets, other related information and property make ready. Any expenses in excess of the Marketing Budget shall be the sole expense of Broker/Auctioneer if advance written approval has not been given by Seller. All marketing decisions with respect to the auction shall be made solely by Broker/Auctioneer with input from the Seller.



MEET OUR TEAM



Susan A. Doyle, President:

Principal Real Estate Broker, Certified Appraiser, Certified Auctioneer.

Licensed in NY, NJ & CT, Graduate International Auction School, 34 years experience. Susan is Past President of the New York State Auctioneers Association and a Past Director for the National Auctioneers Association.



Robert A. Doyle, CAI, ISA, CAGA:

Principal Auctioneer / Appraiser

Certified Appraiser, Certified Auctioneer, Graduate International Auction School, over 35 years experience. 50th President of the National Auctioneers Association, Past-Chairman of the Board of the National Auctioneers Association, Past-President of NYS Auctioneers Association, Past-President of NYC Auctioneers Association, NYS Bid Calling Champion, National & NYS "Hall of Fame" Member.



Jennifer Mensler-Gableman, CAI, ATS:

Auctioneer, Licensed NY, NJ & CT RE Agent, Office Manager

- Licensed Real Estate Associate Broker in NY, Salesperson in NJ & CT
- Graduated Texas Auction Academy in Dallas/Fort Worth, TX in 2008
- Earned Auction Technology Specialist designation in 2012
- Associate Degree in Business Administration from Dutchess Community College, Poughkeepsie, NY
- Bachelor Degree in Business Management & Administration from Mount Saint Mary College, Newburgh, NY
- Active member of the National Auctioneers Association serving on committees and attending conferences and seminars since 2008
- New York State Ambassador for the National Auctioneers Association
- Active member of the New York State Auctioneers Association
- Over 13 years experience in the auction business
- Graduate of Certified Auctioneers Institute in 2017
- Recipient of 2017 Pat Massart Leadership Award, voted on by her peers
- Notary Public



MEET OUR TEAM



Philip Gableman, CAI, GPPA:

Auctioneer, Licensed RE Salesperson & Personal property Coordinator

- Licensed Real Estate Salesperson in NY
- Graduated Texas Auction Academy in Dallas Fort Worth, Texas in 2008
- Associate degree in Business Administration from Dutchess Community College, Poughkeepsie, NY
- Bachelor degree in Business Management and Marketing from Marist College, Poughkeepsie, NY
- Earned Graduate Personal Property Appraisal designation in 2012
- USPAP Certified
- Graduate of Certified Auctioneers Institute in 2014
- Earned Auction Marketing Management designation in January 2016
- Active member of the National Auctioneers Association attending conferences and seminars since 2008
- 2015-2016 New York State Bid Calling Champion
- National Auctioneer Association Education Institute Trustee 2016-2018
- Board of Director for New York State Auctioneers Association 2015-2017



Paul Stansel, CAGA:

Auctioneer, Licensed RE Salesperson in CT

Paul is a member of the National Auctioneers Association and the Certified Appraisers Guild of America. A graduate of Missouri Auction School.



Jessica Meyer Booth:

Director of Marketing/Real Estate Salesperson

Licensed NY Real Estate Salesperson - Jess has worked with us in the auction industry for 20 years. She is responsible for the administration of real estate auctions including digital data gathering, website maintenance and the implementation of marketing campaigns.



Kimberly Doyle:

Social Media Coordinator

Kim is our dedicated social media specialists and manages our various social media sites including Facebook, Twitter and Pinterest. She also handles additional marketing on Craigslist and our main auction websites.



UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
BRIDGEPORT DIVISION

-----X
In re: : CHAPTER 11
: :
CARL R. SAYERS and : CASE NO.: 15-50870
SUZANNE SAYERS :
Debtors :
-----X

CARL R. SAYERS
DBA DANBURY TOP SOIL CO.
AND
SUZANNE SAYERS,
MOVANTS

vs.

DEUTSCHE BANK NATIONAL TRUST COMPANY,
AS SUCCESSOR FOR SOUNDVIEW HOME LOAN
TRUST 2005-OPT4, ASSET BACKED CERTIFICATES,
SERIES 2005 OPT4;
READY CAP LENDING, LLC;
NEWTOWN SAVINGS BANK;
DEPARTMENT OF REVENUE SERVICES;
CITY OF DANBURY TAX COLLECTOR; AND
CITY OF DANBURY PUBLIC UTILITIES,
RESPONDENTS

=====

**ORDER ON DEBTORS' AMENDED SECOND MOTION FOR ORDERS
PURSUANT TO 11 U.S.C. §363 AND FED. R. BANKR. P. 2002 AND 6004:
(I) (A) ESTABLISHING COMPETITIVE BIDDING PROCEDURES IN
CONNECTION WITH SALE OF DEBTOR'S ASSETS; (B) SCHEDULING
AUCTION AND SALE HEARING AND ESTABLISHING OBJECTION
DEADLINE WITH RESPECT TO APPROVAL OF SALE; AND (C)
AUTHORIZING AND APPROVING FORM AND MANNER OF
NOTICE OF BIDDING PROCEDURES AND SALE HEARING; (II)
AUTHORIZING AND APPROVING SALE OF DEBTORS' REAL
ESTATE ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES AND INTERESTS;
AND (III) GRANTING RELATED RELIEF**

Upon consideration of the sale motion (the “Sale Motion”)¹ of the above-captioned debtors and debtors in possession (the “Debtors”), for entry of orders: (I) (i) establishing competitive bidding procedures in connection with sale of Debtors’ assets; (ii) scheduling auction and sale hearing and establishing objection deadline with respect to approval of sale; (iii) authorizing and approving form and manner of notice of bidding procedures and sale hearing; (II) authorizing and approving the sale of the Debtors’ real estate free and clear of liens, claims, encumbrances, and interest; and (III) granting related relief as reasonable under the circumstances of the Debtors’ chapter 11 case, it is hereby:

ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. It is in the best interests of the Debtors’ estate and creditors to pursue as auction of the Assets (the “Auction”) as set forth herein under Bankruptcy Code § 363 and would maximize the value of the estate.

2. The Debtors’ properties (collectively herein the “Properties” or “Assets” will be sold in the following order as set forth herein:

(a) 7,9,13 Miry Brook Road aka Sugar Hollow Road;

(b) 25 Miry Brook Road (the Debtor owns a 75% interest, but understands the other 25% owner who is an insider would consent to the sale provided they receive 25% of the net proceeds);

(c) 38 Miry Brook Road;

(d) 15 Miry Brook Road.

3. the Court will conduct an auction of the Property on _____, 2018 at _____ a.m./p.m. at the US Bankruptcy Court, 157 Church Street, 18th floor, New Haven, CT with _____

¹ Capitalized terms not defined herein have the meanings given to them in the Sale Motion.

internet bidding and in Court bidding with an auction sale of these properties serially in the order set forth above free and clear of all liens and interests with closings to be conducted within 35 days after approval of the sale of any property as set forth herein.

4. In addition, as the auction will be staggered so that each property is sold separately and in series in the order set forth above, if the total proceeds achieved after each sale are sufficient to address all allowed claims in the case, the Debtors have the right to cancel all subsequent sales of any remaining properties subject to court approval.

A. THE BIDDING AND PARTICIPATION PROCESS

5. The Debtors will prepare a package of information concerning the Property that will be available to any interested bidder.

6. Absolute Auction & Realty, Inc. ("AAR") , with the Debtors' assistance will assist with the auction and prequalify the bidders ("Potential Bidders"). The principal prequalification requirements will be

A. a statement signed by the Potential Bidder that within 24 hours after a sale is conducted, the highest bidder is required to supplement its deposit so that they have paid to the Debtors amount refundable deposit equals ten percent (10%) of the total purchase price and sign any necessary Purchase & Sale Agreements prepared by the Debtors. If for any reason the Seller does not timely perform the sole remedy shall be the return of Buyer's down payment the purchase consideration shall be paid by the Potential Bidder in full upon closing time being of the essence; In addition to paying the winning and successful bid amount to the Debtors at closing, any winning bidder shall also be a responsible to pay an additional fee, called a buyer's premium, equal to five percent (5%) of the winning and successful bid amount to and for the benefit of

Absolute Auctions and Realty, Inc. at closing, all time being of the essence. A buyer's premium is a common fee in all types of auctions. Any bid cannot contain any financing contingencies of any kind; if the offer of such Potential Bidder is deemed to be the Second Best Bid (as defined below), that Potential Bidder's offer is irrevocable until 15 days after the date that the Successful Bidder is required to close; and the Potential Bidder's board of directors (or comparable governing body) has authorized the submission, execution, delivery and closing of the form of purchase agreement; and

B. that the Potential Bidder acknowledges that the Properties are being sold "AS IS" and "WHERE IS" without any representations or warranties; and all registrants will be required to complete all paperwork to participate in the auction including agreeing to the terms of the auction, provide government issued identification, good funds for the deposit in the required amount per property and proof of funds to cover at least the minimum bid for each Property they desire to bid on. Additionally, online only registrants will be required to have all documents notarized and mailed in to the AAR office along with good funds in the form of a bank check.

C. tender a Deposit in the form of a certified or bank check immediately available funds payable to the order of Carl and Suzanne Sayers, as escrow agent to be held (but not necessarily deposited) by Debtors' counsel, in an amount equal to the following based on the property they intend to bid on (the "Deposit").

- a. 7, 9 and 13 Miry Brook - \$50,000.00
- b. 25 Miry Brook - \$25,000.00
- c. 38 Miry Brook - \$25,000.00

d. 15 Miry Brook - \$25,000.00

7. A bidder on 25, 38 or 15 Miry Brook only needs to post a single \$25,000.00 deposit to bid on any one of these properties

8. The Deposit of the Successful Bidder will be applied as a credit against the purchase consideration for the Successful Bidder. If the Successful Bidder is unable to close the sale of the Property they are buying by the closing date selected by Debtors' counsel, time being of the essence, the deposit paid by the Successful Bidder shall be declared forfeited by the Successful Bidder and release to Debtors' estate free and clear of any claims and interests. At such point, the holder of the Second Best Bid will have 48 hours to supplement its deposit so that it has paid ten percent of its bid as a deposit and twenty-one (21) days to close, time being of the essence. If the Second Best Bid is unable to close the sale of the Property they are buying by the closing date selected by Debtors counsel time being of the essence, the deposit paid by the Second Best Bid shall be declared forfeited by the Second Best Bidder and released to Debtors' estate free and clear of any claims and interests. The Deposit of the Second Best Bidder (defined below) will be refunded (without interest) no more than 15 days after the date that the Successful Bidder is required to close (unless, at that time, the sale is completed with the Second Best Bidder, in which case such Deposit will be applied as specified in the preceding sentence). The Deposits of all other Potential Bidders will be refunded (without interest) not later than five business days after the Sale Hearing by law firm check or bank check if bank check was tendered. Debtors' counsel will not refund any deposit by wire transfer or reissue bank or certified checks.

9. The following are the minimum bids that a potential bidder must make for each property on which they intend to make a bid:

- a. 7, 9 and 13 Miry Brook - \$1,150,000.00
- b. 25 Miry Brook - \$270,000.00
- c. 38 Miry Brook - \$300,000.00
- d. 15 Miry Brook - \$200,000.00

10. Bidding increments shall begin at \$15,000 for 7, 9 and 13 Miry Brook, and \$3,000 for other properties, subject to the Court or the Debtors requesting that the bidding increments be increased or decreased at varying times of the auction to spur or enhance competitive bidding.

11. The minimum bid for each property is not the strike price, i.e. the amount that each property will be sold for, but has been established to maximize competitive bidding. With respect to 7, 9 and 13 Miry Brook, the Court will request approve the highest and best bid that at the end of the auction that is greater than the minimum bid with the proceeds to be paid as follows: Eleven percent (11%) of gross proceeds under \$2 million will be carved out for the benefit of the estate (i.e. conveyance taxes, allowed auctioneer/broker fees, closing costs, allowed attorneys' fees, US Trustee fees, etc.). For any amount received for this property above \$2.1 million, the carve out for the estate shall increase to 39.5% (to account for estimated fed and state taxes). If this property sells for enough to satisfy all secured claims on the property (after carveouts set forth herein) the remaining proceeds shall be retained by the estate. After these carveouts, the proceeds would first be used to pay real estate taxes and then to secured creditors (up to the allowed amount of its claim) in full satisfaction of its claims.

12. With respect to 15 Miry Brook, the Debtors will sell that property for the highest and best price realized from the auction sale that exceeds the Minimum Bid.

13. With respect to 25 and 38 Miry Brook, the Debtors have a strike/reserve price that will permit the sale of each property after taking into account the balance of existing mortgage and liens and tax considerations. The Debtors are authorized to seek approval of the highest and best bids of these properties only if they believe are each sufficient to pay off in full the existing mortgage and liens on that property, estimated income taxes and provide sufficient funds to pay conveyance taxes, allowed auctioneer/broker fees, closing costs, allowed attorneys' fees related to the sale and auction and US Trustee fees.

14. The Debtors are authorized to adopt such other rules for the Bidding Process that will better promote the goals of the Bidding Process not inconsistent with the order of the Court.

B. AUCTION

15. In connection with bidding, the Debtors and their representatives may request financial or other relevant information from any bidders or potential bidding.

16. Upon conclusion of the Auction, the Debtors', in consultation with counsel, shall review each Bid on the basis of financial and contractual terms and the factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale. Thereafter, the Debtors shall identify the highest or otherwise best offer for the Assets (the "Successful Bid") and the second highest and best offer for the Assets (the "Second Best Bid"). Following the conclusion of the Auction, the successful Bidder may be required to supplement its deposit so that the successful Bidder's deposit equals no less than 10% of the Successful amount of the Bid. At the hearing to approve the sale following the auction, the Debtors shall present the Successful Bid and the Second Best Bid to the Bankruptcy Court for approval and contingent approval, respectively.

F. ACCEPTANCE OF BIDS

17. The Debtors will be deemed to have accepted a bid only when the bid has been approved by the Bankruptcy Court at the hearing to approve the sale and accepted by the Debtors as set forth herein. The Debtors are prepared to share the strike price for each property with the U.S. Trustee immediately before the auction if the U.S. Trustee requests. As noted above, only 25 and 38 Miry Brook have reserve or strike prices, with the minimum bids and the carveouts on 7, 9 and 13 Miry Brook sufficient to permit the sale for the highest and best offer above the minimum bid.

G. DEBTORS' APPROVAL

18. If the Debtors are unable to reach an agreement for a particular Property the secured creditors with liens on a particular property and the highest bid at Auction is insufficient to satisfy the secured claims, costs of sale, the broker or auctioneer's commissions and expenses, and certain other administrative expenses, then the Debtors' are authorized to not accept a proposed bid for subsequent Court approval.

19. As the Auction will be staggered so that each property is sold separately and in series in the order set forth above, if the total proceeds achieved after each sale is sufficient to satisfy all allowed claims and administrative claim in the case, the Debtors are authorized to cancel the sales of any remaining Properties, subject to Court approval.

H. SALE HEARING

20. A hearing to approve the Sale Motion shall be held on _____ at _____, at U.S. Bankruptcy Court, District of Connecticut at New Haven, 157 Church Street, 18th Floor, New Haven, CT. Any objection to the Sale Motion shall be filed with the Court on or before _____, 2018 at 5:00 p.m. The hearing to approve the Sale Motion may be adjourned or rescheduled without notice by an announcement of the adjourned date at the hearing

to approve the Sale Motion. At the hearing to approve the Sale Motion, the Debtors shall present to the Bankruptcy Court for approval the Successful Bid and the Second Best Bid for the Acquired Assets.

21. Following the hearing to approve the Sale Motion approving the sale of the Assets to a Successful Bidder, if such Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Second Best Bid, as disclosed at the hearing to approve the Sale Motion, shall be deemed to be the Successful Bid and the Debtors shall be authorized to effectuate such sale without further order of the Bankruptcy Court.

I. RETURN OF DEPOSIT

22. Upon completion of the Auction, the Deposits of all other Bidders, other than the Successful Bidder and the Second Best Bidder, shall be returned to such other Bidders. The Deposits of the Successful Bidder and the Second Best Bidder shall be held in escrow until 15 days after the date that the Successful Bidder actually closes on its purchase.

J. RESERVATION OF RIGHTS

23. The Debtors shall retain all rights to the Assets that are not subject to a bid accepted by the Debtors and approved by the Bankruptcy Court at the hearing to approve the Sale Motion.

24. The Debtors reserve the right to modify the Bidding Procedures, as necessary or as they deem appropriate to maximize value for their estate and creditors non inconsistent with this order.