

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE

IN RE:)
)
DONALD DUREN MARTIN and) **Case No. 16-08387**
MARY ELLEN MARTIN,) **Chapter 11**
) **Judge Charles M. Walker**
)
Debtors.)

EXPEDITED MOTION FOR AUTHORITY TO SELL REAL ESTATE AT AUCTION

Comes the Debtors, through counsel, and respectfully moves this Honorable Court to grant them the authority to sell at auction certain real property located at 103 Brentlawn Drive, Springfield, Tennessee, 37172, pursuant to the terms and conditions set forth herein and, further, requests an expedited hearing thereon. In support thereof, the following would be shown unto the Court:

1) **RELIEF REQUESTED** - The Debtors request authority to sell at auction certain real property consisting of 54.34 acres of real property located at 103 Brentlawn Drive, Springfield, Tennessee, 37172. The auction shall be held on November 11, 2017, at 10:30 a.m.

2) **REASONS FOR URGENCY** - Reliant Bank, who holds a deed of trust on the property, has obtained relief from the automatic stay. A foreclosure has been scheduled on the property and has already been continued once to November 20, 2017. The auction is scheduled for November 11, 2017 in an attempt to generate a higher sale price in advance of any foreclosure. Advertising and promotion for the sale needs to begin as soon as possible; therefore, this Motion needs to be heard on an expedited basis.

3) **PARTIES RECEIVING NOTICE** - Notice of this Application will be sent to

Megan Seliber, Attorney for the United States Trustee, Marc T. McNamee and Stephen M. Montgomery, Attorneys for Reliant Bank, and all other parties of record to receive notice electronically via the U.S. Bankruptcy Court's CM/ECF filing system, on October 27, 2017. Notice of this Application will be sent to the Debtor and all other creditors and parties-in-interest pursuant to the attached mailing matrix; by U.S. Mail, postage prepaid, on October 27, 2017.

4) **PROPOSED HEARING DATE** - The Debtor requests that this matter be heard on November 7, 2017, at 9:00 a.m., in Courtroom 2, Second Floor, Customs House, 701 Broadway, Nashville, Tennessee, or the next available date thereafter.

5) **ARGUMENT** - Debtors, Donald and Mary Ellen Martin, are the owners of the real property located at 103 Brentlawn Drive, Springfield, Tennessee, 37172. The automatic stay has been lifted on the property and Reliant Bank has a foreclosure scheduled for November 20, 2017. Debtors wish to market and auction the property in an attempt to maximize the sale price of the property which will in turn reduce the debt owed to Reliant Bank and reduce the amount which would be needed to repay the bank in any Chapter 11 plan.

From the sale proceeds, the Debtors propose to pay the costs of the auctioneer, the deed tax and all outstanding property taxes.

Notice of the proposed sale is given pursuant to Rule 2002(a)(2) of the Federal Rules of Bankruptcy Procedure. The buyer shall not be an insider as defined by Section 101(13) and Rule 2014 of the Bankruptcy Code, and the sale shall represent an arms-length transaction between the parties, made without fraud, collusion, and no attempt will be made by either party to take any unfair advantage of the other. The buyer shall purchase the Property in good faith pursuant to 11

U.S.C. § 363(m).

The sale gives Reliant Bank, the creditor holding a lien on the property, the right to approve or refuse to accept the final auctioned bid price for the property. The lien held by Reliant Bank shall be attached to the proceeds of the sale. Reliant Bank has already agreed to the terms of the auction.

WHEREFORE, the Debtors pray for the entry of an Order granting the relief sought herein, and that they be entitled to such other and further relief as is just.

Respectfully submitted,

LEFKOVITZ & LEFKOVITZ

/S/ STEVEN L. LEFKOVITZ

Steven L. Lefkovitz, No. 5953

Attorney for Debtor

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CERTIFICATE OF SERVICE

I hereby certify that I have sent a true and exact copy of the foregoing to Megan Seliber, Attorney for the United States Trustee, Marc T. McNamee and Stephen M. Montgomery, Attorneys for Reliant Bank, and all other parties of record to receive notice electronically via the U.S. Bankruptcy Court's CM/ECF filing system, on October 27, 2017.

I further certify that I have sent a true and exact copy of the foregoing to the Debtor and all other creditors and parties-in-interest pursuant to the attached mailing matrix; by U.S. Mail, postage prepaid, on October 27, 2017.

/S/ STEVEN L. LEFKOVITZ

Steven L. Lefkovitz



**SEARCY
REALTY &
AUCTIONS, INC.**

**CONTRACT FOR SALE OF REAL ESTATE
AND/OR PERSONAL PROPERTY AT PUBLIC AUCTION**

Agreement made this 13 day of OCTOBER, 2017, between DONALD MARTIN hereinafter called owner, and SEARCY REALTY & AUCTIONS, INC. hereinafter called agent and auctioneer.

Agent and auctioneer, after advertising, in accordance with their usual custom, will offer for sale and sell at absolute/ public auction, on the 11 day of NOV, 2017, 10:30^{AM} o'clock or within 180 days thereof, the following described property in ROBERTSON County, Tennessee recorded in Deed Book 1374, Page No. 573, Map 91 L, Parcel 29.00, Address 103 BRENTLAWN DRIVE, SPRINGFIELD, TN 37172

Owner will pay agent and auctioneer a commission of 6 % of the total of real estate and (NA) % of all personal property)

(Initials) _____ Owner agrees that no part of said property shall be sold or offered for sale during the effective period of this agreement, except as herein stated.

Auctioneer _____ will or will not charge a buyer's premium of _____ % on _____ real estate, _____ personal property.

Owner to furnish at his expense to the purchaser of the real estate, **Title Insurance Policy, Escrow Closing Statements and Warranty Deed.** Purchaser of personal property and/or equipment will receive same without debt.

Owner to pay Advertising Expenses to conduct sale in the amount of \$1000.00.

Owner authorizes agent and auctioneer to execute binding contract of sale on his behalf.

Owner to furnish free money in the amount of \$ NA. (In addition to above auction expense)

The property described herein is to be sold upon the following terms and conditions:

Sold SUBJECT TO RELIANT BANK APPROVAL OF FINAL PURCHASE AMOUNT.

Special Notes made a part of this contract:

LEAD BASED TAINT DISCLOSURE (ATTACHED) TO ANY PURCHASE AGREEMENT.

Should the property not sell at public auction, the seller agrees to contract with Searcy Realty and Auctions, Inc., an Exclusive Right to Sell Listing of NA days.

This contract is hereby accepted on the terms above stated for:

Listing Agent [Signature] 10/12/17 Auctioneer [Signature] 10/12/17
 Owner [Signature] Date 10/13/17
 Owner Mary Eden Martin Date 10/26/17
 Owner _____ Date _____

Searcy Realty & Auctions, Inc.
2109 Park Plaza Drive, Suite 100
Springfield, TN 37172

(615) 384-9095 (Office)
(615) 384-3399 (Fax)