

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: * CASE NO. 17-59804-bem
*
Dennis J. Durkin * CHAPTER 11
*
Debtor. *

**MOTION TO SELL REAL ESTATE OF DEBTOR FREE AND CLEAR OF ALL
CLAIMS, LIENS AND ENCUMBRANCES AND FOR AUTHORITY TO MAKE
CERTAIN DISBURSEMENTS INCLUDING BROKER COMMISSIONS AT CLOSING**

COMES NOW Dennis J. Durkin, Debtor and Debtor-in-Possession in the above-styled Chapter 11 case and file this Motion to Sell Real Estate of Debtor, Dennis J. Durkin and for other relief, showing this Honorable Court the following:

1.

This Court has jurisdiction in this matter pursuant to 28 U.S.C. § 1334, 157(b). This Court is the proper venue for this matter pursuant to 28 U.S.C. § 1409. This matter is a core proceeding as defined in 28 U.S.C. § 157(b)(2)(N).

2.

Debtor Dennis J. Durkin filed his Chapter 11 case on June 5, 2017. At the time of filing this case, the Debtor was the owner of certain property, including, specifically, real estate located on 3435 Kingsboro Road, Unit PH-1, Atlanta, GA 30326 and on which US Bank National Association, as Trustee, through PHH Mortgage Corporation (hereinafter “PHH/Merrill Lynch”) holds a first priority security interest. Total PHH/Merrill Lynch loans are approximately \$1,350,000.00, and are secured by not only this real estate but also securities valued at approximately \$700,000.00.

3.

The Debtor has received a full price offer for the purchase and sale of 3435 Kingsboro Road, Unit PH-1, Atlanta, GA 30326. The Debtor has accepted this offer, subject to Bankruptcy Court approval.

4.

The purchase price for the property is \$1,150,000.00 which represents the full listing price of the property and the Purchaser is one Sando-Alfa International Ventures, Ltd., an unrelated entity.

5.

The Debtor proposes from the sales proceeds to pay all customary costs of closing, including commissions, prorated taxes and transfer fees, with all remaining proceeds to be made payable to PHH Mortgage Corporation at the time of closing. Payment of such amounts will not be deemed as an admission of the total amount claimed by PHH to be due under the Merrill Lynch loan documents. Debtor reserves the right to object to the Proof of Claim filed by PHH Mortgage.

6.

Debtor believes, and therefore alleges, that there may other valid liens, claims or encumbrances as to the Property. But, it is anticipated that there will be no net remaining proceeds to pay such other liens. A significant secured debt, however, will be paid down by Debtor from the sale. Further, those lien claimants, including PHH, have further protection existence of some \$700,000.00 in UPS stock owned by Debtor and which is currently held by Merrill Lynch. Also, the other liens are disputed in amount at the very least.

7.

Pursuant to 11 U.S.C. § 363(f), the Debtor is entitled to have the property sold free and clear of liens. The Debtor believes that the sale of this property is in the best interests of the estate and creditors and that such sale will assist in the effectuation of the Debtor's financial reorganization.

8.

Attached hereto is a copy of the subject Agreement for Purchase and Sale of Real Property.

9.

Debtor shows the Court that closing is scheduled on this Agreement on or before September 29, 2017.

WHEREFORE, Debtor prays:

- (a) that this Motion be filed, read and considered;
- (b) that this Motion be granted; and
- (c) that this Honorable Court grant such other and further relief as it deems just and proper.

This 8th day of August, 2017.

/s/George M. Geeslin
George M. Geeslin
Attorney for Barry Camac
Georgia Bar No. 288725

Suite 1350, Two Midtown Plaza
1349 West Peachtree Street
Atlanta, Georgia 30309-2961
Phone (404) 841-3464
Fax (404) 816-1108
George@GMGeeslinLaw.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: * CASE NO. 17-59804-bem
*
Dennis J. Durkin * CHAPTER 11
*
Debtor. *

CERTIFICATE OF SERVICE

I certify that I have this day served the persons listed below with a copy of the within and foregoing **MOTION TO SELL REAL ESTATE OF DEBTOR FREE AND CLEAR OF ALL CLAIMS, LIENS AND ENCUMBRANCES AND FOR AUTHORITY TO MAKE CERTAIN DISBURSEMENTS INCLUDING BROKER COMMISSIONS AT CLOSING** via email and by depositing a copy of same in the United States Mail, adequate postage affixed thereto to:

Georgia Department of Revenue
Taxpayer Services Division
PO Box 105499
Atlanta, GA 30348-5499

GEORGIA DEPARTMENT OF REVENUE
COMPLIANCE DIVISION, ARCS - BANKRUPTCY
1800 CENTURY BLVD NE, SUITE 9100
ATLANTA GA 30345-3205

Internal Revenue Service
ACS Support-STOP 813G
PO Box 145566
Cincinnati, OH 45250-5566

INTERNAL REVENUE SERVICE
P O BOX 7346
PHILADELPHIA, PA. 19101-7346

Matthew D. Treco, Esq.
Kaufman & Forman, P.C.
8215 Roswell Road
Building 800

Atlanta, GA 30350

Merrill Lynch Wealth Management

ATTN: Sabrina N. Williams
3455 Peachtree Rd NE
Atlanta, GA 30326

PHH Mortgage Corpotion

for US Bank NA
c/o Shapiro Pendergast & Hasty
211 Perimeter Ctr Parkway Ne, #200
Atlanta, GA 30346

PHH Mortgage Corpotion

P.O. Box 5459
Mount Laurel, NJ 08054

U. S. Attorney

600 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta GA 30303

U.S. Bank National Association, as Trustee

c/o Wells Fargo Bank, N.A., as Servicer
Default Document Processing N9286-01Y
1000 Blue Gentian Road
Eagan MN 55121-7700

Wells Fargo Home Mortgage

P.O. Box 14411
Des Moines, IA 50306

A. Michelle Hart Ippoliti

McCalla Raymer Liebert Pierce, LLC
1544 Old Alabama Rd.
Roswell, GA 30076

Lucretia Lashawn Scruggs

Shapiro Pendergast & Hasty
211 Perimeter Center Parkway, Suite 300
Atlanta, GA 30346

David S. Weidenbaum

Office of the U.S. Trustee
362 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, GA 30303

This 8th day August, 2017.

/s/George M. Geeslin
George M. Geeslin
Georgia Bar No. 288725

Suite 1350, Two Midtown Plaza
1349 West Peachtree Street
Atlanta, Georgia 30309-2961
Phone (404) 841-3464
Fax (404) 816-1108
George@GMGeeslinLaw.com