



ORDERED in the Southern District of Florida on August 23, 2017.

A handwritten signature in black ink, reading "A. Jay Cristol".

**A. Jay Cristol, Judge
United States Bankruptcy Court**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division
www.flsb.uscourts.gov

In re:

GRAND ABBACO DEVELOPMENT
OF VILLAGE WEST CORP.,
a Florida Corporation

Case No. 16-14286-AJC
Chapter 11

Debtor.

**ORDER (I) APPROVING COMPETITIVE BIDDING AND SALE PROCEDURES;
(II) APPROVING FORM AND MANNER OF NOTICES; (III) APPROVING
PURCHASE AND SALE AGREEMENT WITH STALKING HORSE BIDDER; (IV)
SCHEDULING DATES TO CONDUCT AUCTION AND HEARING TO CONSIDER
FINAL APPROVAL OF SALE, INCLUDING TREATMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; (V) AUTHORIZING SALE OF
SUBSTANTIALLY ALL THE DEBTOR'S ASSETS FREE AND CLEAR
OF ALL LIENS, CLAIMS, ENCUMBRANCES AND INTERESTS;
AND (VI) GRANTING RELATED RELIEF**

THIS MATTER came before the court on August 17, 2017 at 2:00 p.m. upon the Trustee's Motion for Entry of Order (I) Approving Competitive Bidding and Sale Procedures; (II) Approving Form and Manner of Notices; (III) Approving Purchase and Sale Agreement with

Stalking Horse Bidder; (IV) Scheduling Dates to Conduct Auction and Hearing to Consider Final Approval of Sale, Including Treatment of Executory Contracts and Unexpired Leases; (V) Authorizing Sale of Substantially All the Debtor's Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (VI) Granting Related Relief (the "***Sale Procedures Motion***") [ECF No. 142].¹ The Court has considered and reviewed the Sale Procedures Motion, has considered the Limited Objection by Secured Creditor Orlando Benitez, Jr. to the Sales Procedures Motion (the "***Benitez Objection***") [ECF No. 157], has heard and considered arguments of counsel at the hearing before the Court (the "***Bid Procedures Hearing***"), and has considered the Court file. Accordingly, and for the reasons stated on the record, the Court makes the following findings and conclusions:

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), made applicable to this proceeding pursuant to Bankruptcy Rule 9014;

B. The Court has jurisdiction over the Sale Procedures Motion and the transaction contemplated by the Agreement pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409;

C. The statutory bases for the relief requested in the Sale Procedures Motion are (i) Sections 105 and 363 of Chapter 11 of Title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the "***Bankruptcy Code***"); (ii) Bankruptcy Rules 2002 6004, and 9014; and (iii) Rule 6004-1

¹ Defined terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Sale Procedures Motion.

of the Local Rules of the United States Bankruptcy Court for the Southern District of Florida (the “*Local Rules*”);

D. Good and sufficient notice of the Sale Procedures Motion and the relief sought therein has been given under the circumstances, and no other or further notice is required except as set forth herein with respect to the Sale Hearing. A reasonable opportunity to object or be heard regarding the relief provided herein has been afforded to creditors, equity holders and other parties in interest;

E. The Trustee’s proposed notice of the Bidding Procedures is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the sale of substantially all of the Debtor’s Assets, and the Bidding Procedures to be employed in connection therewith;

F. The Trustee has articulated good and sufficient reasons for the Court to: (i) approve the Bidding Procedures; (ii) set the Sale Hearing and approve the manner of notice of the Auction and the Sale Hearing; (iii) designate GV as the stalking horse bidder and a Qualified Bidder entitled to the Break-Up Fee (as hereinafter defined); and (iv) designate GV’s bid as the stalking horse bid and a Qualified Bid;

G. The Trustee has properly marketed the sale of the Property;

H. The entry of this Bidding Procedures Order is in the best interests of the Debtor’s estate; and

I. The Bidding Procedures are reasonably designed to maximize the value to be achieved for the Assets.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The Sale Procedures Motion is **GRANTED** in all respects and the Bidding Procedures are approved. To the extent of any conflict between the terms of the Sale Procedures Motion and this Order, the terms of this Order shall control.

2. The Benitez Objection is overruled, except as provided herein.

3. The Bidding Procedures, as set forth in the form of notice attached hereto as **Exhibit 1**, are incorporated herein and approved in their entirety, including, without limitation, the Break-Up Fee and other bidding protections in favor of GV.

4. The bid submitted by GV as the stalking horse bid is deemed a Qualified Bid and GV as the stalking horse bidder is deemed a Qualified Bid without further action or process. Accordingly, GV is entitled to all of the bidding protections pursuant to the Bidding Procedures, including payment of a Break-Up Fee if GV is not the Prevailing Bidder.

5. As further described in the Bidding Procedures, the deadline for submitting bids for the Assets (the “***Bid Deadline***”) shall be October 10, 2017 (three (3) business days before the Auction). No bid shall be deemed to be a Qualified Bid or otherwise considered for any purposes unless such bid meets the requirements set forth in the Bidding Procedures.

6. The Trustee may sell the Assets and enter into the transaction contemplated by the Agreement by conducting an Auction in accordance with the Bidding Procedures.

7. If Qualified Bids are timely received by the Trustee in accordance with the Bidding Procedures, the Auction shall take place on **October 13, 2017 at 10:00 a.m. (prevailing Eastern Time)** at the C. Clyde Atkins United States Courthouse, 301 N. Miami Avenue, Courtroom 7, Miami, Florida 33128, which the Trustee shall notice all Qualified Bidders, including GV, counsel for GV and other invitees (including Orlando Benitez, Jr.). If, however,

no such Qualified Bid is received by the Bid Deadline, then the Auction will not be held and the Trustee shall seek Bankruptcy Court approval of the Sale to GV in accordance with the Agreement.

8. If GV is not the successful bidder at the Auction, GV shall be entitled to a break-up fee in the amount of \$50,000.00 (the “***Break-Up Fee***”).

9. The Sale Hearing shall be held before the Court on October 13, 2017 at 2:00 p.m. (prevailing Eastern Time).

10. Objections, if any, to the Sale of the Assets must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the clerk of the Bankruptcy Court for the Southern District of Florida, C. Clyde Atkins United States Courthouse, 301 North Miami Avenue, Room 150, Miami, Florida 33128 (or filed electronically via CM/ECF), on or before 4:30 p.m. (prevailing Eastern Time) two (2) business days prior to the Sale Hearing (the “***Sale Objection Deadline***”); and (d) be served upon (i) counsel to the Trustee, (ii) counsel to the Debtor, and (iii) the Office of the United States Trustee, in each case, so as to be actually received no later than 4:30 p.m. (prevailing Eastern Time) on the same day.

11. The notice, substantially in the form attached hereto as **Exhibit 1** (the “***Auction and Sale Notice***”) is approved.

12. On or before three (3) business days after entry of the Bidding Procedures Order, the Trustee will cause the Auction and Sale Notice to be sent by first-class mail postage prepaid, to all potential bidders previously identified or otherwise known to the Trustee as well as the Debtor’s entire creditor matrix, which includes, but is not limited to, the following: (a) all creditors or their counsel known to the Trustee to assert a lien (including any security interest), claim, right, interest or encumbrance of record against all or any portion of the Assets; (b) the

Office of the United States Trustee; (c) all applicable federal, state and local taxing and regulatory authorities of the Debtor or recording offices or any other governmental authorities that, as a result of the Sale, may have claims, contingent or otherwise, in connection with the Debtor's ownership of the Assets or have any known interest in the relief requested by this Motion; (d) counsel to GV; (e) the United States Attorney's office; (f) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; and (g) all other known creditors and interest holders of Debtor.

13. The Sale Hearing may be continued, from time to time, without further notice to creditors or other parties in interest other than by announcement of said continuance before the Court on the date scheduled for such hearing or in the hearing agenda for such hearing.

14. No party submitting an offer or Qualified Bid for the Assets other than GV shall be entitled to any expense reimbursement, breakup, termination or similar fee or payment.

15. Except as otherwise provided in this Bidding Procedures Order and the Bidding Procedures, the Trustee further reserves the right as he may reasonably determine to be in the best interests of the Debtor's estate to: (a) determine which bidders are Qualified Bidders; (b) determine which bids are Qualified Bids; (c) determine which Qualified Bid is the highest and best proposal and which is the next highest and best proposal; (d) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of the Bidding Procedures or the requirements of the Bankruptcy Code, or (iii) contrary to the best interests of the Debtor's estate; (e) remove some or all of the Assets from the Auction; (f) waive terms and conditions set forth herein with respect to all potential bidders; (g) extend the deadlines set forth herein; (h) continue or cancel the Auction and/or Sale Hearing in open court without further notice; and (i)

modify the Bidding Procedures as he may determine to be in the best interests of the Debtor's estate.

16. To the extent there are any inconsistencies between the terms of this Bidding Procedures Order and the Sale Procedures Motion or the Agreement, the terms of this Bidding Procedures Order, including the Bidding Procedures attached hereto as **Exhibit 1**, shall govern.

17. The form of the Agreement is approved in all respects, except that Section 7.1(d) of the Agreement is revised as follows:

Offer for Assemblage. By Seller, in the event that Seller receives a bona fide offer from a third party to purchase the assemblage, more particularly described on *Schedule 2* attached hereto (the "Assemblage"), acceptable to Seller prior to five (5) days before the Auction (at which point the Seller can cancel the Auction and this Agreement shall be deemed terminated). In the event of such termination pursuant to this Section 7.1(d), Escrow Agent shall promptly return the Deposit to Purchaser, and thereafter this Agreement shall be null and void, and neither party shall have any further or other obligation to the other.

To the extent a conflict exists between the terms of the Agreement and this Bidding Procedures Order, the terms of this Bidding Procedures Order shall control and govern.

18. The stay provided for in Bankruptcy Rules 6004(h) is hereby waived and this Bidding Procedures Order shall be effective immediately upon its entry.

19. All time periods set forth in this Bidding Procedures Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

20. The Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Bidding Procedures Order in accordance with the Sale Procedures Motion.

21. The Court shall retain jurisdiction over any matters related to or arising from the implementation of this Bidding Procedures Order.

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Submitted By:

Peter D. Russin, Esquire

Florida Bar No. 765902

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Telefax: (305) 358-1221

Copies Furnished To:

Peter D. Russin, Esquire, is directed to serve copies of this Order on all parties in interest and to file a Certificate of Service.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division
www.flsb.uscourts.gov

In re:

GRAND ABBACO DEVELOPMENT
OF VILLAGE WEST CORP.,
a Florida Corporation

Case No. 16-14286-AJC
Chapter 11

Debtor.

**NOTICE OF BIDDING PROCEDURES
FOR THE SALE OF THE DEBTOR'S ASSETS**

PLEASE TAKE NOTICE OF THE FOLLOWING:

On August 3, 2017, Drew M. Dillworth, in his capacity as Chapter 11 Trustee (“**Trustee**”) of Nassau Development of Village West Corp., (the “**Debtor**”), filed his amended motion [ECF No. 160](the “**Sale Procedures Motion**”)¹ for entry of an order (the “**Bidding Procedures Order**”), among other things (I) Approving Competitive Bidding and Sale Procedures; (II) Approving Form and Manner of Notices; (III) Approving Purchase and Sale Agreement with Stalking Horse Bidder; (IV) Scheduling Dates to Conduct Auction and Hearing to Consider Final Approval of Sale, Including Treatment of Executory Contracts and Unexpired Leases; (V) Authorizing Sale of Substantially All the Debtor’s Assets Free and Clear of All Liens, Claims, Encumbrances and Interests; and (VI) Granting Related Relief.

On August ____, 2017, the United States Bankruptcy Court for the Southern District of Florida entered the Bidding Procedures Order [ECF No. ____]. Pursuant to the Bidding Procedures Order, the Bankruptcy Court adopted the Bidding Procedures set forth in this Notice pursuant to which (a) interested parties will have the opportunity to make competing offers to purchase the Assets, as described below; and (b) the Assets will ultimately be sold to the bidder submitting the highest and best bid at an Auction (as defined herein)(the “**Sale**”), which highest and best bid must be approved by the Bankruptcy Court.

Pursuant to the Bidding Procedures Order, the auction for the Assets (the “**Auction**”) shall take place on **October 13, 2017 at 10:00 a.m.** (prevailing Eastern Time) at the C. Clyde Atkins United States Courthouse, 301 N. Miami Avenue, Courtroom 7, Miami, Florida 33128. Only parties that have submitted a Qualified Bid in accordance with the Bidding Procedures detailed herein, by no later than three (3) business days before the Auction (the “**Bid Deadline**”), may participate at the Auction unless such Bid Deadline is extended by the Trustee in his sole

¹ Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Sale Procedures Motion.

discretion. Any party that wishes to take part in this process and submit a bid for the Assets must submit their competing bid prior to the Bid Deadline and in accordance with the Bidding Procedures. Parties interested in receiving information regarding the sale of the Assets should contact Debtor's counsel, Meland, Russin & Budwick, P.A., 3200 Southeast Financial Center, 200 South Biscayne Boulevard, Miami, Florida 33131, Attn: Peter Russin, Esq., and Daniel Gonzalez, Esq., Telephone No. (305) 358-6363, Facsimile No. (305) 358-1221, e-mail prussin@melandrussin.com and dgonzalez@melandrussin.com ("*Trustee's Counsel*").

The Sale Hearing to consider approval of the Sale of the Assets to the Proposed Purchaser or Prevailing Bidder free and clear of all liens, claims and encumbrances will be held on **October 13, 2017 at 2:00 p.m.** before the Honorable A.J. Cristol, Bankruptcy Judge, at the C. Clyde Atkins United States Courthouse, 301 N. Miami Avenue, Courtroom 7, Miami, Florida 33128. The Sale Hearing may be continued from time to time without further notice to creditors or parties in interest other than by announcement of the continuance in open court on the date scheduled for the Sale Hearing (or in agenda).

Objections, if any, to the sale of the Assets contemplated by the Agreement, must: (a) be in writing; (b) comply with the Bankruptcy Rules and the Local Rules; (c) be filed with the clerk of the Bankruptcy Court for the Southern District of Florida, C. Clyde Atkins United States Courthouse, 301 North Miami Avenue, Room 150, Miami, Florida 33128 (or filed electronically via CM/ECF), on or before 4:30 p.m. (prevailing Eastern Time) two (2) business days prior to the Sale Hearing, or such earlier date and time as the Trustee may agree; and, (d) be served so as to be received no later than 4:30 p.m. (prevailing Eastern Time) on the same day, upon: (i) Trustee's counsel; (ii) counsel to the Debtor; and (iii) the Office of the United States Trustee.

This Notice and the Sale Hearing are subject to the fuller terms and conditions of the Sale Procedures Motion, the Bidding Procedures Order and the Bidding Procedures, which shall control in the event of any conflict and the Trustee encourages parties in interest to review such documents in their entirety. Copies of the Sale Procedures Motion, the Agreement, and the Bidding Procedures Order may be obtained by written request to Trustee's Counsel.

BIDDING PROCEDURES

1. Marketing Period; Acceptance of Bids.

(a) *Marketing Period.* This Agreement represents the product of substantial marketing of the Assets by the Trustee, the Nassau Debtor, and the Abbaco Debtor. From the effective date hereof until the Auction (the "Marketing Period"), the Trustee shall be entitled to continue to market the Assets to third parties and solicit and accept Qualified Bids (as defined below) for the purchase of the Assets.

(b) *Potential Bidder.* Before submitting a Qualified Bid Packet (as defined below), every potential bidder other than GV NASSAU, LLC, a Florida Limited Liability Company (the "Stalking Horse Bidder"), must deliver to the Trustee (i) an executed confidentiality agreement in form and substance satisfactory to the Trustee (the form of confidentiality agreement may be obtained from The Trustee upon request), and (ii) some form of evidence acceptable to the Trustee establishing, in the business judgment of the Trustee, that the potential bidder has the financial ability to close the potential sale.

(c) *Qualified Bid Packet.* A "Qualified Bid Packet" shall comply with and/or include all of the following items:

(i) A written statement identifying whether the Potential Bidder is bidding solely on either the Nassau Real Property or Grand Abbaco Real Property, or if the Potential Bidder is bidding on both the Nassau Real Property and Grand Abbaco Real Property.

(ii) A deposit (the "Bidder Deposit") in an amount equal to the Deposit paid by the Stalking Horse Bidder for either or both the Nassau Real Property or Grand Abbaco Real Property payable by cashier's check or wire transfer (or other form acceptable to The Trustee in its sole discretion). The Bidder Deposit shall be deposited with and held in trust by the Escrow Agent identified in the Agreement;

(iii) An executed asset purchase agreement that substantially conforms to the Agreement executed by the Stalking Horse Bidder that includes a purchase price equal to or greater than \$2,215,000.00 for the Nassau Real Property and/or equal to or greater than \$1,055,000.00 for the Grand Abbaco Real Property, and a redline version showing any changes from the Agreement, which executed asset purchase agreement the Trustee will file with the Bankruptcy Court prior to the Bid Deadline (as defined below);

(iv) Any bid must not contain any contingencies to the validity, effectiveness, and/or binding nature of the offer, including without limitation, contingencies for financing or due diligence;

(v) Financial information sufficient for the Trustee to assess the financial wherewithal of the bidder to close on the sale of the Assets in the event

that the bidder is the successful bidder; such information shall include, at a minimum, financial statements, bank account statements, or other documents of such entity (including information on any third-party funding required to consummate and perform under the asset purchase agreement) establishing the ability to timely close the transaction by the Auction (as defined below);

(vi) A letter setting forth the identity of the potential bidder, the contact information for such potential bidder, and full disclosure of all parties participating with the potential bidder, as well as full disclosure of any pre-petition and post-petition affiliation that the potential bidder may have with (1) the Nassau Debtor or Abbaco Debtor, (2) the Nassau Debtor's or Abbaco Debtor's members, (3) the Nassau Debtor's or Abbaco Debtor's Affiliates, (4) major creditors of the Nassau Bankruptcy Case or Abbaco Bankruptcy Case, (5) equity security holders of the Nassau Debtor or Abbaco Debtor, and (6) any of the Nassau Debtor's or Abbaco Debtor's former officers or directors or other insiders; and

(vii) The Qualifying Bid Packet must be delivered with the items described above on or before the Bid Deadline to: Drew M. Dillworth, 2200 Museum Tower, 150 West Flagler Street, Miami, Florida 33130, Telephone: (305) 789-3200, Facsimile: (305) 789-3395, E-mail: DDillworth@stearnsweaver.com with a copy to Trustee's counsel, Peter Russin, Esq. and Daniel Gonzalez, Esq., 200 South Biscayne Blvd., Suite 3200, Miami, Florida 33130, Telephone: (305) 358-6363, Facsimile: (305) 358-1221, Emails: prussin@melandrussin.com and dgonzalez@melandrussin.com.

(d) *Bid Deadline.* Subject to extension in the sole discretion of the Trustee, the deadline for submitting bids by a Qualified Bidder shall be the three business days before the Auction (the "Bid Deadline") or such other date as the Bankruptcy Court determines in the Bid Procedures Order.

(e) *Qualified Bidder.* Before the Auction, the Trustee shall evaluate each Qualifying Bid Packet and may then identify a person, persons, entity, or entities from among those who submitted a Qualifying Bid Packet and deem those person(s) "Qualified Bidders" with "Qualifying Bids." By participating in the Auction, each Qualified Bidder consents to its bid being designated as a back-up bid in the event its bid is designated as the second highest and best offer to purchase the Assets (a "Back-Up Bid"). A Qualified Bid will be valued based upon the following factors: (a) the purchase price relating to the Qualified Bid; (b) the ability to close the sale transaction without delay; and (c) any other factors the Trustee may deem relevant. The Trustee reserves the right to make the final determination of who is a Qualified Bidder. The Stalking Horse Bidder shall be deemed to be a Qualified Bidder. The Trustee shall notify all Qualified Bidders no later than 5:00 p.m. Eastern Time one business day before the Auction that they may participate in the Auction and shall also provide a summary of the Qualified Bids. All Qualified Bidders and Stalking Horse Bidder shall be bound by their bids until conclusion of the Auction.

(f) *Due Diligence.* The Trustee shall afford any Potential Bidder the opportunity to conduct a reasonable due diligence review in the manner determined by the Trustee. A Potential Bidder will be afforded the opportunity to conduct due diligence in a manner no less favorable than that provided to the Stalking Horse Bidder within the time from set by the Bankruptcy Court. Upon a request in writing or by e-mail to Trustee's counsel by any Potential Bidder, the Trustee will provide to such Potential Bidder copies or e-mail transmissions, as appropriate, of the Schedules of Assets and Liabilities and Statements of Financial Affairs prepared and filed by the Debtor in this Chapter 11 case. The Trustee shall make all reasonable efforts to provide a Potential Bidder with such additional information the Potential Bidder may request that is in the Trustee's possession on or before the Bid Deadline, as may reasonably be necessary or relevant to the formulation of its bid.

2. Auction.

(a) *No Qualified Bids.* If no Qualified Bid (other than Stalking Horse Bidder's bid) is received by the Bid Deadline, the Trustee shall report the same to the Bankruptcy Court and the Trustee shall deem Stalking Horse Bidder's bid the highest or otherwise best offer for the Assets and proceed with the transaction contemplated by the Agreement.

(b) *Time and Location of Auction.* If one or more Qualified Bids (other than Stalking Horse Bidder's bid) are received, the Trustee will conduct an auction (the "Auction") with respect to the Assets. The Auction, if required, shall take place on **October 13, 2017 at 10:00 a.m. (prevailing Eastern Time)** at the C. Clyde Atkins United States Courthouse, 301 N. Miami Avenue, Courtroom 7, Miami, Florida 33128, of which the Trustee will notify all Qualified Bidders who have submitted Qualified Bids. The Auction may be adjourned from time to time at the discretion of the Trustee. The Auction is an absolute auction, and the Trustee reserves the right to reject, any and all bids, other than the Qualified Bid of the Stalking Horse Bidder.

(c) *Bidding Increments.* The Auction shall be conducted as an "open cry" auction. Bidding will begin at the purchase price stated in the Agreement or if higher, highest purchase price stated by one or more Qualified Bids for the Assets provided that such highest purchase price equals the sum of \$2,215,000.00 for the Nassau Real Property and \$1,055,000.00 for the Abbaco Real Property - i.e. the purchase price plus the Breakup Fee plus the Overbid Protection discussed below. Bidding will subsequently continue in additional minimum increments of no less than Ten Thousand and 00/100 Dollars (\$10,000.00) in cash, unless the Trustee decides to lower the amount of the additional minimum increments. The Stalking Horse Bidder is not required to participate in the bidding but shall have the right to bid at any time during the Auction.

(d) *Prevailing Bid.* The Auction shall conclude when the Trustee receives what is determined by the Trustee to be the highest and best offer for the Assets – either as a whole or separate bid for the Nassau Real Property and Abbaco Real Property (the "Prevailing Bid") (the Prevailing Bid being submitted by the "Prevailing Bidder"). Subject only to the subsequent approval of the Bankruptcy Court, The Trustee shall have the unfettered discretion to determine whether any Qualifying Bid constitutes the highest and best bid for the Assets, based on, among other things, the form of consideration being offered and the likelihood of the bidder's

ability to close a transaction and the timing thereof. The Trustee shall then designate one or more Back-Up Bidders.

3. Sale Order. On October 13, 2017, at 2:00 p.m., the Bankruptcy Court shall conduct a hearing to approve the sale of the Assets to the Prevailing Bidder and enter the Sale Order. "Sale Order" means an order of the Bankruptcy Court, in form and substance acceptable to the Prevailing Bidder in its reasonable discretion, that, among other things, (i) approves the sale of the purchased Assets to the Prevailing Bidder free and clear of all Liens (hereinafter defined) and claims pursuant to sections 363(b) and 363(f) of the Bankruptcy Code (other than Permitted Exceptions), such Liens and claims to attach to the Purchase Price, and (ii) provides that (a) Prevailing Bidder has acted in "good faith" within the meaning of section 363(m) of the Bankruptcy Code, (b) the Agreement was negotiated, proposed and entered into by the parties without collusion, in good faith and from arm's length bargaining positions, (c) the Bankruptcy Court shall retain jurisdiction to resolve any controversy or claim arising out of or relating to this Agreement, or any breach hereof as provided in Section 9, and (d) this Agreement and the transactions contemplated hereby may be specifically enforced against and binding upon, and not subject to rejection or avoidance by, the Nassau Debtor or Abbaco Debtor, the Trustee or any other trustee of the Nassau Debtor or Abbaco Debtor subsequently appointed. The Sale Order shall further provide that the Prevailing Bidder is not a successor to the Nassau Debtor, Abbaco Debtor, or the Trustee; that the Prevailing Bid represents a fair market value of the Assets; that the Prevailing Bidder shall have no liability for any obligations of the Nassau Debtor, Abbaco Debtor, or the Trustee except as expressly provided herein; and that the automatic stays under Rule 6004 of the Federal Rules of Bankruptcy Procedures is waived. "Lien" means any lien, encumbrance, pledge, mortgage, deed of trust, security interest, claim, lease, charge, option, right of first refusal, right of first offer, covenant, right of way, easement, servitude, proxy, voting trust or agreement, transfer restriction under any shareholder or similar agreement or encumbrance, or any other restriction or limitation whatsoever.

4. Back-Up Bidder. If any Prevailing Bidder fails to consummate the sale of the Assets (or the Nassau Real Property or Abbaco Real Property, as the case may be) within five (5) business days of the required closing date because of a breach or failure to perform on the part of such Prevailing Bidder, the Prevailing Bidder shall forfeit its Bidder Deposit to the Trustee and the next highest or otherwise best Qualified Bid or Qualified Bids for each of the Assets (or the Nassau Real Property or Abbaco Real Property, as the case may be) will be deemed to be the Prevailing Bidder, and the Trustee will be authorized to consummate the sale with the applicable Qualified Bidder submitting such bid without further order of the Bankruptcy Court (the "Back-Up Bidder"). The closing of the Sale to a Backup Bidder shall take place within ten calendar (10) days after such Back-Up Bidder receives notice from the Trustee that the Prevailing Bidder failed to close and that The Trustee has elected to proceed to close with one or more Back-Up Bidders. If the Back-Up Bidder is unable or unwilling to close the sale in the time permitted, the Back-Up Bidder shall forfeit its Bidder Deposit to the Trustee.

5. Breakup Fee. If (a) the Bankruptcy Court approves the sale of the Assets (or the Nassau Real Property or Abbaco Real Property, as the case may be) to a third party Qualified Bidder unaffiliated with Stalking Horse Bidder pursuant to a higher or better offer for the Assets (or the Nassau Real Property or Abbaco Real Property, as the case may be)(an "Alternative Offer"), (b) the sale of the Assets (or the Nassau Real Property or Abbaco Real Property, as the

case may be) pursuant to the Alternative Offer actually closes, and, (c) in either such case, Stalking Horse Bidder (x) is not in material breach of the Agreement beyond the period allowed for cure of such breach and (y) is otherwise willing and capable of closing the transaction contemplated by the Agreement, then Stalking Horse Bidder shall be paid by the Trustee, in cash, from the sale proceeds of such Alternative Offer the sum of \$100,000.00 (if the Assets are sold as a package) and \$50,000.00 for each of the Nassau Real Property and Abbaco Real Property (as the case may be, in the event the Stalking Horse Bidder is not the Prevailing Bidder for either) as a break-up fee (the "Breakup Fee"). Anything contained in the Agreement to the contrary notwithstanding, in the event that the Assets are sold and closed pursuant to an Alternative Offer, the Agreement is terminated and Stalking Horse Bidder shall receive a prompt return of the Deposit applicable to each of the Nassau Real Property or Abbaco Real Property, as the case may be, and the Breakup Fee shall be paid to Stalking Horse Bidder by wire transfer of immediately available funds within three (3) Business Days of the closing of a sale pursuant to an Alternative Offer. No bidder other than Stalking Horse Bidder shall be entitled to a break-up or termination fee, expense reimbursement, or similar payment. For the avoidance of doubt, the amount of the Breakup Fee shall act as a credit against any overbids made by the Stalking Horse Bidder. Notwithstanding the foregoing, the Stalking Horse Bidder shall not be entitled to the Breakup Fee in the event the Agreement is terminated pursuant to Section 7.1(f) of the Agreement.

6. Bid Protection. If Stalking Horse Bidder (x) is not in material breach of the Agreement beyond the period allowed for cure of such breach and (y) is otherwise willing and capable of closing the transaction contemplated by the Agreement, the Trustee agrees not to entertain or accept an Alternative Offer unless the amount of such Alternative Offer exceeds the Purchase Price by at least the Breakup Fee plus Five Thousand and 00/100 Dollars (\$5,000.00) (such overbid requirement being referred to as the "Overbid Protection"). Notwithstanding the foregoing, this provision does not apply to the sale of the Assemblage (as defined in Section 7.1(f) of the Agreement).

7. Return of Deposits. Each Bidder Deposit shall be maintained in a non-interest bearing account and subject to the jurisdiction of the Bankruptcy Court. Within five (5) business days after the entry of the Sale Order, the Trustee shall return all Bidder Deposits to all Qualified Bidders except (i) the Bidder Deposit submitted by the Prevailing Bidder, whose Bidder Deposit shall be applied by the Trustee against the purchase price at the closing, and (ii) the Bidder Deposit submitted by the Back-Up Bidder (other than the Stalking Horse Bidder). In the event that the Prevailing Bidder closes the sale, the Trustee shall return to the Back-Up Bidder its Bidder Deposit within five (5) business days after the Closing. In the event the Back-Up Bidder closes on the purchase of the Assets, its Bidder Deposit shall be applied by the Trustee against the purchase price. In no event shall the Stalking Horse Bidder's Deposit be unapplied and retained beyond thirty (30) calendar days following the Closing Date.

8. Modifications to Bid Procedures. The Trustee reserves all rights to impose, at or before the Auction, additional terms and conditions on the sale of the Assets, to extend or adjourn any deadlines set forth in these Bidding Procedures, and to take any other actions with respect to the Auction, the Bid Procedures or the sale of the Assets which in its business judgment are reasonably necessary to preserve the bankruptcy estate or maximize the value thereof that are not inconsistent with these Bid Procedures, the Agreement, or any order of the

Bankruptcy Court. However, the Auction may not be continued beyond thirty (30) calendar days.

9. Bankruptcy Court Jurisdiction. The Bankruptcy Court shall retain exclusive jurisdiction over any matter or dispute relating to the sale, the Bid Procedures, the Agreement, the Auction, and/or any other matter that in any way relates to the foregoing. Any party disputing the sale, the Bid Procedures, the Agreement, the Auction and/or any other matter that in any way relates to the foregoing shall file an objection with the Bankruptcy Court as soon as practicable to facilitate resolution of the objection.

10. Miscellaneous. All Qualified Bidders shall be deemed to have waived any right to a jury trial in connection with any disputes relating to the Auction and/or the sale of the Assets. All asset purchase agreements shall be governed by and construed in accordance with the laws of the State of Florida.

DATED this ____ day of August 2017.

Respectfully submitted,

s/ Peter D. Russin
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