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5 Confirmation Estate Fiduciary

6 **UNITED STATES BANKRUPTCY COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**

8 In re
9 JAMES MARVIN ROTH,
10 Debtor.

Case No. 10-07659-MM11 (Lead Case)
Case No. 10-07663-MM11

11 In re
12 ROTH MANAGEMENT
13 CORPORATION,
14 Debtor.

**MOTION FOR ORDER
APPROVING SALE OF ESTATE'S
INTEREST IN REAL PROPERTY
LOCATED AT 5092-130 GUAVA
AVENUE FREE AND CLEAR OF
ALL LIENS; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF
CHRISTOPHER R. BARCLAY;
AND DECLARATION OF BONNIE
KIPPERMAN**

Date: August 3, 2017
Time: 2:00 p.m.
Dept: 1

Honorable Margret M. Mann

21 Christopher R. Barclay, the Estate Fiduciary for the James Marvin Roth
22 (“JMR”) and Roth Management Corporation (“RMC”) Bankruptcy Estates, hereby
23 brings this Motion for an Order approving the sale of the bankruptcy estate’s rights,
24 title and interests, in real property, pursuant to 11 U.S.C. § 363, as more fully set
25 forth below. In support of his Motion for Order Approving Sale of the Bankruptcy
26 Estate's Rights, Title and Interests, in Real Property of the Estate, (the “Motion”),
27 Trustee represents the following:

28 Debtor JMR is the owner of real property located at 5092-130 Guava Avenue,

1 La Mesa, CA (“Guava Unit #130”). Pursuant to the Joint Plan (Docket #509 in
2 Lead Case), Guava Unit #130 was to be marketed and sold before the 60th month
3 with marketing to commence by the 54th month. [Docket #509, pg.42, l. 9]. The
4 Joint Plan also stated that any sale or other disposition of property, is to be free and
5 clear of all liens, but subject to Court approval. [Docket #509, pg. 45, l. 16].
6 Finally, the Order expanding the Fiduciary’s duties, authorized him to hire
7 professionals without Court approval. [Docket #1002, pg 3]. The Fiduciary retained
8 Bonnie Kipperman of Leonard M. Smith¹, A California Corporation, to represent
9 the Estate as its real estate broker and marketed the Guava Unit #130. Fiduciary now
10 has an offer to purchase Guava Unit #130 for \$415,000.00. Buyer has also made a
11 deposit to escrow in the amount of \$15,000 and signed a Purchase and Sale
12 Agreement, subject to the Court’s approval. Fiduciary believes that this sale of
13 Guava Unit #130 is in the best interest of the Estate and requests that the Court
14 approve the sale.

15 **STATEMENT OF FACTS**

16 JMR and RMC filed voluntary petitions for bankruptcy under chapter 11 of
17 the Bankruptcy Code on May 3, 2010. RMC is owned 100% by JMR. JMR and
18 RMC are sometimes collectively referred to herein as “Debtors”.

19 On July 27, 2012, Debtors JMR and RMC each filed a Fourth Joint Amended
20 Chapter 11 Plan of Reorganization (“Joint Plan”). As originally filed, the Joint Plan
21 submitted by the Debtors in their cases contemplated a sale of condominiums held
22 by the JMR bankruptcy estate located at the following addresses: 1) 5088-120
23 Guava Avenue, La Mesa, CA; 2) 5088-121 Guava Avenue, La Mesa, CA; 3) 5084-
24 111 Guava Avenue, La Mesa, CA; 4) 5092-130 Guava Avenue, La Mesa, CA.

25 On October 24, 2013, the Court authorized Christopher R. Barclay to be the
26

27 ¹ Ms. Kipperman is the wife of Trustee Richard Kipperman who was the Chapter 7 Bankruptcy Trustee for
28 the Debra Roth case. Mr. Kipperman filed his no asset report in the Debra Roth case on January 2014.
Ms. Kipperman was not contacted until early 2016 regarding the marketing and sale of the Guava Units.

1 Post-Confirmation Estate Fiduciary (“Fiduciary”). [Docket #1002]. The Fiduciary is
2 now proceeding with effectuating the terms of the Joint Plans.

3 The Fiduciary obtained the services of Leonard M. Smith, a California
4 Corporation, and particularly Bonnie Kipperman, to represent the Estate as its real
5 estate broker. Ms. Kipperman visited Guava Unit 130. Based on her inspection and
6 review of comparable sales in the area, the Fiduciary initially directed Ms.
7 Kipperman to list Unit 130 for \$410,000. A short while after the initial listing the
8 Fiduciary instructed Ms. Kipperman to deactivate the listing for Unit 130 in favor of
9 the listing for units 111, 120 and 121. After the Fiduciary had no contingent offers
10 for units 111, 120 and 121, the Fiduciary instructed Ms. Kipperman to reactive the
11 listing for Unit 130 at \$415,000. See Kipperman Declaration.

12 As more fully described below, the Fiduciary now has an offer to purchase
13 Guava Unit #130 for \$415,000.00 from Lawrence and Silvia Tomicich (“Buyer”).
14 Buyer has also made a deposit to Fiduciary in the amount of \$15,000 and signed a
15 Purchase and Sale Agreement, subject to the Court’s approval. Fiduciary believes
16 that this sale of Guava Unit #130 is in the best interest of the Estate and requests that
17 the Court approve the sale. A copy of the Purchase Agreement is attached as
18 **Exhibit A** to the Declaration of the Fiduciary.

19 Accordingly, the Fiduciary is now seeking approval for the sale of Guava
20 Unit 130, which is legally described as:

21 Parcel 1:
22 An undivided 1/30th interest in and to all that portion of La Mesa Tract no. 04-03, in
23 the City of La Mesa, County of San Diego, State of California, recorded November
24 9, 2006 as Map No. 15470, in the office of the County Recorder of said County,
shown and defined as "Common Area" on the Condominium Plan recorded
November 30, 2006 as Instrument No. 2006-0851210, of Official Records of said
County.

25 Excepting therefrom easements, as such easements are set forth in the Declaration of
26 Covenants, Conditions and Restrictions recorded November 30, 2006 as
27 Instrument/File No. 2006-0851211 of Official Records of Said County, and any now
or hereafter recorded amendments thereto.

28 Excepting therefrom rights to assign as exclusive use Common Area (as defined in

1 Section 1351(I) of the California Civil Code) all of those portions thereof shown and
2 defined on said Condominium Plan as garage area G-21; balcony area B-1, entry
3 areas as defined and depicted on the plan, yard areas Y-12 and Y-13, Parking Area
4 P-1

5 Parcel 2:

6 All that portion of Map No. 15470 shown and defined as Unit No. L-1 on said
7 Condominium Plan.

8 Parcel 3:

9 An exclusive use common area as defined in Section 135(I) of the California Civil
10 Code, appurtenant to Parcel 2 above, in and to Garage Area G-21, balcony Area B-
11 1, entry areas as defined and depicted on the Plan, yard areas Y-12 and Y-13,
12 parking areas P-1, as shown and defined on said Condominium Plan

13 Parcel 4:

14 Nonexclusive easements for the benefit of and appurtenant to Parcels 1 and 2 above,
15 such easements are set forth in the Declaration of Covenants, Conditions and
16 Restrictions recorded November 30, 2006 as Instrument No. 2006-0851211 of
17 Official Records of said County, and any now or hereafter recorded amendments
18 thereto (the "Declaration").

19 APN: 470-111-36-01

20 The Fiduciary obtained a title report for Guava Unit #130, and is informed
21 that a non-disputed deed of trust has been recorded against the Property, in favor of
22 Mortgage Electronic Registration Systems, Inc. Solely as nominee for Mountain
23 Express Mortgage, LC, a Limited Corporation, its successors and assigns
24 (Recording No. 2007-0314149) as assigned to Federal National Mortgage
25 Association (Fannie Mae) (Record No. 2016-0058826) reflected at item 15 of the
26 preliminary title report (the "Title Report"), and as adjusted and provided for under
27 the Joint Plan. A copy of the title report is attached to the Barclay Declaration as
28 **Exhibit B**. The Joint Plan authorized that these first deed holders be paid from the
sale of each unit in a reduced amount. See Class 10. While the Joint Plan did name
these secured creditors, the Fiduciary understands that the identities of these secured
creditors may have shifted due to assignments or changes to servicing agents.
Accordingly, the Fiduciary requests that he is authorized to pay the undisputed liens,
as reduced by the confirmed Joint Plan, but as identified in the current title report
and/or as so identified by the title company with a valid payoff request.

The Providence Square HOA lien, identified in item 17 (Record No. 2009-

1 0599320), was stripped pursuant to the confirmed Joint Plan and Providence has
2 subsequently provided the Fiduciary a release.

3 Finally, the Fiduciary will sell free and clear of the abstracts of judgment
4 identified in the title reports as items 16 (Record No. 2009-0442727) and 18 (Record
5 No. 2010-0056913) both held by Anice Plikaytis, as the Fiduciary understands that
6 the judgment identified in item 16 was already paid, and the judgment identified in
7 item 18 is now subject to payment pursuant to the confirmed Plan.

8 Upon approval of the sale, the Fiduciary shall have full authority to take any
9 and all actions necessary to complete the transaction.

10 Further, the Fiduciary seeks authority to pay from escrow: (a) all escrow and
11 closing costs specified in the Agreement; (b) the brokers' aggregate 5%
12 commission; and (c) all property taxes due and secured by the property as of the
13 closing date. To the extent there are disputes regarding any of these amounts, the
14 Fiduciary should be authorized to receive and hold the funds, pending resolution of
15 the disputes.

16 The Fiduciary believes that the Buyer is a good faith purchaser and that this
17 sale qualifies for a finding of good faith under 11 U.S.C. § 363(m). As a result, the
18 Fiduciary also requests a finding that § 363(m) applies here.

19 WHEREFORE, the Fiduciary prays for an order that:

20 (1) Approves and authorizes, on an "AS-IS" basis, the Fiduciary's sale to
21 Lawrence and Silvia Tomicich (the "Buyer"), of Guava Unit #130 for the Purchase
22 Price on the terms and conditions specified in the Agreement.

23 (2) Directs that the Fiduciary's sale of Guava Unit #130 is to pay
24 undisputed amounts due to the first trust deed holder, as modified under the Joint
25 Plan, and as identified by the title report and/or the title company with a valid payoff
26 request, and property taxes. To the extent there are disputes regarding any of these
27 amounts, the Fiduciary should be authorized to receive and hold the funds, pending
28 resolution of the disputes.

1 (3) Directs that the Fiduciary’s sale shall be free and clear of all liens,
2 claims, and interests pursuant to 11 U.S.C. Section 363 (f).

3 (4) Authorizes the Fiduciary to pay from escrow: (a) all escrow and
4 closing costs specified in the Agreement; (b) the brokers’ aggregate 5% commission
5 and (c) all property taxes due and secured by Guava Unit #130 as of the closing
6 date. To the extent there are disputes regarding any of these amounts, the Fiduciary
7 should be authorized to receive and hold the funds, pending resolution of the
8 disputes.

9 (5) Approves each of the terms of the Agreement, authorizes the
10 Fiduciary to perform the Agreement, and determines that the Agreement is in the
11 best interest of the estate, that the sale is made for fair market value and in good
12 faith, that the Buyer is buying the Property in “good faith”, as that term is used in 11
13 U.S.C. § 363(m), for reasonable value, and on reasonable notice.

14 (6) Determines that adequate notice of this Motion was given; and

15 (7) Provides for such other and further relief as the Court deems just and
16 proper.

17

18 DATED: July 3, 2017

LISSEBECK LAW

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By: /s/ Yosina M. Lissebeck
Yosina M. Lissebeck
Attorney for Christopher R. Barclay,
Post Confirmation Estate Fiduciary

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **THIS COURT HAS AUTHORITY TO AUTHORIZE THE SALE OF GUAVA**
4 **UNITS OUTSIDE THE ORDINARY COURSE OF BUSINESS PURSUANT**
5 **TO 11 U.S.C. § 363(b)(1)**

6 Section 363(b)(1) of the Bankruptcy Code provides that a trustee “after notice
7 and a hearing, may use, sell, or lease, other than in the ordinary course of business,
8 property of the estate.” 11 U.S.C. § 363(b)(1). Property of the estates includes “all
9 legal or equitable interest of the debtor in property as of the commencement of the
10 case,” regardless of where the property is located, or by whom it is held. See 11
11 U.S.C. § 541(a). The court’s power to authorize the sale under § 363(b) is to be
12 exercised at its discretion. See In re Lionel Corp., 722 F.2d 1063, 1069 (2d. Cir.
13 1983); In re Baldwin United Corp., 43 B.R. 888, 905 (Bankr. S.D. Ohio 1984); In re
14 Ancor Exploration Co., 30 B.R. 803, 808 (Bankr. N.D. Okla. 1983).

15 The standard to be applied in determining whether a sale should be authorized
16 under § 363(b)(1) is whether such sale is in the best interest of the estate and
17 whether the price is fair and reasonable. See In re Canyon Partnership, 55 B.R. 520
18 (Bankr. S.D. Cal. 1985). A trustee is given substantial deference and discretion in
19 this regard. Id. Further, a sale under § 363(b) must be proposed in good faith and
20 supported by a valid business justification. See 240 N. Brand Partners, Ltd. v.
21 Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659
22 (9th Cir. BAP 1996). “Good faith” encompasses “fair value, and further speaks to
23 the integrity of the transaction.” Id.

24 Here, the Joint Plan requires the Fiduciary to sell the Guava Units. The
25 Fiduciary has contacted Bonnie Kipperman of Leonard M. Smith, A California
26 Corporation, to represent the Estate as its real estate broker. Ms. Kipperman has
27 substantial experience selling real estate in Bankruptcy matters. For her services,
28 Leonard M. Smith, a California Corporation has agreed, along with seller’s broker,
to share a 5% commission from each of the Guava Units selling price. This

1 commission will be paid upon escrow closing, and no further order of the Court will
2 be sought. See Kipperman Declaration.

3 Ms. Kipperman visited all 5 of the Guava Units. Based on her inspection and
4 review of comparable sales in the area, the Fiduciary directed Ms. Kipperman to list
5 Units 111, 120, 121 and 130 at \$410,000. A short while after the initial listing the
6 Fiduciary instructed Ms. Kipperman to deactivate the listing for Unit 130 in favor of
7 the listing for units 111, 120 and 121. After the Fiduciary had no contingent offers
8 for units 111, 120 and 121, the Fiduciary instructed Ms. Kipperman to reactive the
9 listing for Unit 130 at \$415,000. The Joint Plan already requires the sale of the
10 condominiums, but further required that the Fiduciary obtain Court approval of the
11 sales. As detailed in the Declaration of Ms. Kipperman, the property was
12 adequately marketed and a reasonable offer was obtained.

13 The Fiduciary has now accepted an offer for the Real Property commonly
14 known as 5092 Guava Avenue, Unit 130, La Mesa California, 91942 (APN 470-
15 111-36-01) in the amount of \$415,000.00 from Lawrence and Silvia Tomicich (the
16 “Buyers”). This is well above the “baseline” mortgage of \$265,000 established by
17 the Court in the confirmed Joint Plans. The Buyers provided a good faith deposit of
18 \$15,000.00. This sale was negotiated in good faith and was an arm’s length
19 transaction with the buyer proceeding in good faith. All creditors are receiving
20 notice of the sale and are being provided with the opportunity to object.

21 **II.**

22 **THE PURCHASE AGREEMENT SATISFIES THE REQUIREMENTS OF**
23 **363(f) FOR A SALE FREE AND CLEAR OF LIENS, CLAIMS,**
ENCUMBRANCES, AND INTERESTS

24 The Joint Plan also states that the sale will be free and clear of all liens.
25 Bankruptcy Code § 363(f) authorizes a debtor-in-possession to sell property of the
26 estate free and clear of any interest in such property only if -

27 (1) applicable non-bankruptcy law permits sale of such property free and
28 clear of such interest;

1 (2) such entity consents;

2 (3) such interest is a lien and the price at which such property is to be sold
3 is greater than the aggregate value of all liens on such property;

4 (4) such interest is in bona fide dispute; or

5 (5) such entity could be compelled, in a legal or equitable proceeding, to
6 accept a money satisfaction of such interest.

7 The Fiduciary obtained a title report for Guava Unit #120, and is informed
8 that a non-disputed deed of trust has been recorded against the Property, in favor of
9 First American Title Insurance Co, reflected at item 16 of the preliminary title report
10 (the "Title Report"), and as adjusted and provided for under the Plan. A copy of the
11 title report is attached to the Barclay Declaration as **Exhibit B**.

12 The Fiduciary will sell free and clear of the following liens:

13 1) The Providence Square HOA lien, identified in item 17 (Record No.
14 2009-0599320), was stripped pursuant to the confirmed Joint Plan and
15 Providence has subsequently provided the Fiduciary a release.

16 2) The abstracts of judgment identified in the title reports as items 16
17 (Record No. 2009-0442727) and 18 (Record No. 2010-0056913) both held
18 by Anice Plikaytis, as the Fiduciary understands that the judgment
19 identified in item 16 was already paid, and the judgment identified in item
20 18 is now subject to payment pursuant to the confirmed Plan.

21 Upon approval of the sale, the Fiduciary shall have full authority to take any
22 and all actions necessary to complete the transaction.

23 The Fiduciary seeks authority to pay from escrow: (a) all escrow and closing
24 costs specified in the Agreement; (b) the brokers' aggregate 5% commission; c) the
25 non-disputed deed of trust recorded against the Property, in favor of Mortgage
26 Electronic Registration Systems, Inc. Solely as nominee for Mountain Express
27 Mortgage, LC, a Limited Corporation, its successors and assigns (Recording No.
28 2007-0314149) as assigned to Federal National Mortgage Association (Fannie Mae)

1 (Record No. 2016-0058826) reflected at item 15 of the preliminary title report (the
2 “Title Report”), and as adjusted and provided for under the Joint Plan. A copy of
3 the title report is attached to the Barclay Declaration as **Exhibit B**. The Joint Plan
4 authorized that these first deed holders be paid from the sale of each unit in a
5 reduced amount. See Class 10. While the Joint Plan did name these secured
6 creditors, the Fiduciary understands that the identities of these secured creditors may
7 have shifted due to assignments or changes to servicing agents. Accordingly, the
8 Fiduciary requests that he is authorized to pay the undisputed liens, as reduced by
9 the confirmed Joint Plan, but as identified in the current title report and/or as so
10 identified by the title company with a valid payoff request; and (d) all property taxes
11 due and secured by the property as of the closing date. To the extent there are
12 disputes regarding any of these amounts, the Fiduciary should be authorized to
13 receive and hold the funds, pending resolution of the disputes.

14 Presumably all parties, lienholders, and those holding any interest in Guava
15 Unit #130 have already consented to the sale – as the Joint Plan requires the sale
16 free and clear of all liens. Further, all parties, lienholders, and those holding any
17 interest in Guava Unit #130 are being paid pursuant to the Joint Plan. The proceeds
18 from the sale must come into the Estate free and clear of all liens and interests so
19 that the Fiduciary can disburse the funds pursuant to the instructions found in the
20 Joint Plan.

21 Particularly, the Joint Plan also authorized various secured claims/classes to
22 be paid from the sale of each unit. These are the first deed holders. See Class 10.
23 While the Joint Plan did name these secured creditors, the Fiduciary understands
24 that the identities of these secured creditors may have shifted due to assignments or
25 changes to servicing agents. Accordingly, the Fiduciary requests that he is
26 authorized to pay the undisputed liens, as reduced by the confirmed Plan, but as
27 identified in the current title report and/or as so identified by the title company with
28 a valid payoff request.

1 From the sale proceeds of Guava Unit #130, the Fiduciary seeks approval to
2 pay the costs of sale, the broker's commission, and all undisputed liens as identified
3 in the title report, and as identified in the Joint Plan. Because the purchase price of
4 \$415,000.00 provides equity beyond the required liens and costs, those funds will be
5 used to pay creditors as set forth under the Joint Plan. Accordingly, not only is this
6 sale required under the Joint Plan, at this sale price it is also in the best interest of
7 the Estate.

8 III.

9 **THIS SALE CONSTITUTES A GOOD FAITH PURCHASE UNDER 11** 10 **U.S.C. § 363(m)**

11 Finally, Section 363(m) of the Bankruptcy Code provides:

12 The reversal or modification on appeal of an authorization under subsection
13 (b) or (c) of this section of a sale or lease of property does not affect the
14 validity of a sale or lease under such authorization to an entity that
15 purchased or leased such property in good faith, whether or not such entity
16 knew of the pendency of the appeal, unless such authorization and such sale
17 or lease were stayed pending appeal.

18 A good faith buyer is "one who buys 'in good faith' and 'for value.'"² "[L]ack
19 of good faith is [typically] shown by 'fraud, collusion between the purchaser and
20 other bidders or the trustee, or an attempt to take grossly unfair advantage of other
21 bidders,'"³ Here, the Buyers are acting in good faith and have agreed to pay fair
22 market value for Guava Unit #130. The proposed sale was negotiated at arm's
23 length between the Fiduciary and the Buyer. The Buyers are neither insiders nor
24 affiliates of the Debtor. For these reasons, the Court may properly determine the
25 Buyers are a good faith purchaser within the meaning of 11 U.S.C. Section 363(m).

26 CONCLUSION

27 For the foregoing reasons, the Fiduciary respectfully requests that this Motion
28 be granted and that the relief requested be authorized by this Court. Thus, the

² *In re Ewell*, 958 B.2d 276, 281 (9th Cir. 1992), citing *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 147 (3rd Cir. 1986).

1 Fiduciary is seeking an Order to approve the sale of the bankruptcy estate's rights in
2 a condominium free and clear of all liens.

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4 DATED: July 3, 2017

Respectfully submitted,

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LISSEBECK LAW

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By: /s/ Yosina M. Lissebeck
YOSINA M. LISSEBECK
Attorneys for Christopher R. Barclay, Post
Confirmation Estate Fiduciary

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³ *Id.*

1 DECLARATION OF CHRISTOPHER R. BARCLAY, FIDUCIARY

2 I, CHRISTOPHER R. BARCLAY, declare as follows:

3 1. I am the duly appointed and acting Post-Confirmation Estate Fiduciary
4 in the above-captioned bankruptcy case. I have read the Memorandum of Points and
5 Authorities and verify all of the facts stated therein.

6 2. The Joint Plan filed by the Debtors, and confirmed by the Court,
7 require that the Guava Units be sold. Thus, I retained the services of Bonnie
8 Kipperman of Leonard M. Smith, as my real estate broker. The Order expanding
9 my duties as the Post Confirmation Estate Fiduciary stated that I could employ
10 professionals without court order. Leonard M. Smith, along with the buyer's broker,
11 will receive a combined 5% commission from the sale of Guava Unit #130. This
12 commission will be paid from the close of escrow.

13 3. While the Joint Plan requires the sale of the Guava Units, it also states
14 that any sale of the debtor's assets is subject to court approval. Thus, I'm filing this
15 motion to obtain the Court's approval to sell 5092 Guava Avenue, Unit 130, La
16 Mesa California, 91942 (APN 470-111-36-01).

17 4. Ms. Kipperman inspected and evaluated the Guava Units. Based on her
18 advice, I initially decided to list Guava Unit #130 for \$410,000. This is well above
19 the "baseline" of \$265,000 mortgage established by the Court for Class 10 claims in
20 the confirmed Joint Plans. I later increased the listing price to \$415,000.00.

21 5. Subject to Court approval, I have accepted, an offer in the amount of
22 \$415,000.00 from Lawrence and Silvia Tomicich (the "Buyers"). This is well above
23 the "baseline" mortgage of \$265,000 established by the Court in the confirmed Joint
24 Plans. The Buyers have provided a good faith deposit of \$15,000.00. This sale was
25 negotiated in good faith and was an arm's length transaction with the Buyer
26 proceeding in good faith. All creditors are receiving notice of the sale and are being
27 provided with the opportunity to object. A copy of this Purchase Agreement is
28 attached as **Exhibit A.**

1 8. I seek authority to pay from escrow: (a) all escrow and closing costs
2 specified in the Agreement; (b) the brokers' aggregate commission; (c) the first deed
3 of trust; and (d) all property taxes due and secured by the property as of the closing
4 date. To the extent there are disputes regarding any of these amounts, I request that I
5 be authorized to receive and hold the funds, pending resolution of the disputes.

6 I declare under penalty of perjury under the laws of the State of California in
7 the United States of America that the foregoing is true and correct to the best of my
8 knowledge and that this declaration is executed this 3 day of July 2017, San
9 Diego, California.

10 /s/ Christopher R. Barclay

11 _____

12 Christopher R. Barclay

13 Post-Confirmation Estate Fiduciary

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EXHIBIT A

DocuSign Envelope ID: D493F59F-FA21-49C2-8B04-5D586E7B226E



CALIFORNIA ASSOCIATION OF REALTORS®

SELLER COUNTER OFFER No. 1
May not be used as a multiple counter offer.
(C.A.R. Form SCO, 11/14)

Date May 31, 2017

This is a counter offer to the: [X] Purchase Agreement, [] Buyer Counter Offer No. _____, or [] Other _____ ("Offer"), dated May 31, 2017, on property known as 5092 GUAVA AVENUE, #1130, LA MESA, 91942 ("Property"), between LAWRENCE TOMICICH, SILVIA TOMICICH ("Buyer") and C.R. BARCLAY, PSI California State Fiduciary ("Seller").

- 1. TERMS: The terms and conditions of the above referenced document are accepted subject to the following:
A. Paragraphs in the Offer that require initials by all parties, but are not initialed by all parties, are excluded from the final agreement unless specifically referenced for inclusion in paragraph 1C of this or another Counter Offer or an addendum.
B. Unless otherwise agreed in writing, down payment and loan amount(s) will be adjusted in the same proportion as in the original Offer.

C. OTHER TERMS: SEE ATTACHED

D. The following attached addenda are incorporated into this Seller Counter offer: [] Addendum No. _____ [X] COUNTER OFFER #1

- 2. EXPIRATION: This Seller Counter Offer shall be deemed revoked and the deposits, if any, shall be returned:
A. Unless by 6:00pm on the third Day After the date it is signed in paragraph 4 (if more than one signature then, the last signature date) (or by [] AM [] PM on _____ (date)) (i) it is signed in paragraph 5 by Buyer and (ii) a copy of the signed Seller Counter Offer is personally received by Seller or _____, who is authorized to receive it.
OR B. If Seller withdraws it anytime prior to Acceptance (CAR Form WOO may be used).
OR C. If Seller accepts another offer prior to Buyer's Acceptance of this counter offer.

3. MARKETING TO OTHER BUYERS: Seller has the right to continue to offer the Property for sale. Seller has the right to accept any other offer received, prior to Acceptance of this Counter Offer by Buyer as specified in 2A and 5. In such event, Seller is advised to withdraw this Seller Counter Offer before accepting another offer.

4. OFFER: SELLER MAKES THIS COUNTER OFFER ON THE TERMS ABOVE AND ACKNOWLEDGES RECEIPT OF A COPY
Seller _____ C.R. BARCLAY, Date 5/31/17
Seller _____ PSI California State Fiduciary, Date _____

5. ACCEPTANCE: I, I/WE, accept the above Seller Counter Offer (if checked [] SUBJECT TO THE ATTACHED COUNTER OFFER) and acknowledge receipt of a copy
Buyer Lawrence Tomicich, Date 6/1/2017 Time [] AM [] PM
Buyer Silvia Tomicich, Date 6/1/2017 Time [] AM [] PM

CONFIRMATION OF ACCEPTANCE:

(R) (Initials) Confirmation of Acceptance: A Copy of Signed Acceptance was personally received by Seller, or Seller's authorized agent as specified in paragraph 2A on (date) 6/1/17 at 3:57 [] AM [X] PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Seller or Seller's authorized agent whether or not confirmed in this document.

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Reviewed by _____ Date _____



SCO 11/14 (PAGE 1 OF 4)

SELLER COUNTER OFFER (SCO PAGE 1 OF 4)

PURCHASE AND SALE AGREEMENT

This agreement ("Agreement") is intended to set forth the terms and conditions of a contract for the purchase by and sale to Lawrence Tomleleh & Silvin Tomleleh (the "Buyers") from Christopher R. Barclay, solely in his capacity as the Post Confirmation Estate Fiduciary for the bankruptcy estate of James Marvin Roth (the "Seller" or "Fiduciary"), of the real property commonly known as 5092 Guava Avenue, Unit 130, La Mesa, California 91942; APN 470-111-36-01 (the "Property"). When executed below, this Agreement will constitute conclusive evidence and the exclusive terms and conditions of the contract for such purchase and sale (the "Sale") of the Property and will supersede any prior oral or written negotiations between the Parties.

1. **PURCHASE PRICE; DEPOSIT; ESCROW.** The purchase price for the Property shall be \$415,000.00 ("Purchase Price"). Buyers shall make an initial deposit of \$5,000.00 (the "Initial Deposit") in the form of cashier's check or wire transfer made payable and delivered to Ticor Title and Escrow within two (2) business days of acceptance of this Agreement by Buyers, Seller's execution of the Affirmation Agreement in the form attached hereto as Exhibit "A", and Buyers' receipt of a copy of the fully executed Agreement and the Affirmation Agreement. Buyers shall make a supplemental deposit of \$10,000.00 (the "Supplemental Deposit") in the form of cashier's check or wire transfer made payable and delivered to Ticor Title and Escrow within two (2) business days of waiver of Buyers' due diligence and financing contingencies pursuant to Section 2 below.

Buyers shall deliver to the Fiduciary, within three (3) days of mutual agreement upon this Agreement, proof of committed funds available to Buyers sufficient to enable Buyers to consummate the acquisition contemplated herein, which proof shall be in the form of a letter of credit, loan commitment or other forms acceptable to the Fiduciary in the Fiduciary's sole discretion. In the event that either (i) Buyers fail timely to provide any such proof, or (ii) the Fiduciary determines, in the Fiduciary sole discretion, that any proof of funds provided to Fiduciary by Buyers is unacceptable, the Fiduciary shall have the right, at the Fiduciary's option, to provide written notice to Buyers that this Agreement is terminated. In the event that the Fiduciary exercises such termination right, this Agreement shall terminate effective as of the date of Fiduciary written notice to Buyers, whereupon the Initial Deposit (if theretofore deposited with the Escrow Holder) shall be returned to Buyers and Buyers and Fiduciary shall each be relieved of further obligation hereunder.

Escrow Instructions corresponding to the terms of this Agreement shall be provided by the Escrow Holder and signed by the parties within five (5) business days of the date of Buyers' and Seller's receipt of said escrow instructions. Buyers and Seller shall deposit such documents and instruments with the Escrow Holder as and when reasonably required to complete the sale. Buyers shall be free to assign this Agreement to another person or entity ("Assignee") subject to Seller's prior review and written approval (which approval Seller may grant or withhold in its sole discretion), but Buyers shall remain liable hereunder, together with such Assignee, in the event that such Assignee fails to perform any of Buyers' obligations hereunder.

2. **BUYERS' DUE DILIGENCE AND FINANCING; CANCELLATION RIGHT.** Buyers agree to waive all contingencies (including any financing contingency), inspections, investigations, tests and reviews of reports, and to complete all due diligence which the Buyers desire for this Sale of the Property, including, but not limited to and performing and completing any geological, soil, structural, environmental, or other tests, inspections, and investigations desired by Buyers within 21 days of acceptance of this Agreement. Upon waiver of all such contingencies, Buyers' obligation to proceed shall be non-contingent except as provided herein for, (i) Buyers' review of a preliminary report and underlying documents respecting the title to the Property (as set forth in Paragraph 3), and (ii) Bankruptcy Court approval of this Agreement and the Sale (including as set forth in Paragraph 7).

3. **TITLE; TITLE INSURANCE.** Within three (3) business days after acceptance of this Agreement Ticor Title (the "Title Company") or title company of Seller's choice will be instructed to provide a preliminary report of the condition of title to the Property, including copies of underlying

documents referred to in Schedule B thereof, for Buyers' review. Buyers may have, not later than the end of the period in Paragraph 2, or until three (3) days after receipt of the preliminary report and underlying documents, whichever occurs later, in which to give Seller written notice ("Notice of Title Disapproval") that Buyers disapprove the condition of title with respect to a material matter(s) that interfere with the use of the Property for the purpose for which it is currently used or intended to be used. Such notice must refer to the specific exception(s) in Schedule B of the preliminary report and the specific underlying document(s) which are the basis for Buyers' disapproval. Within five (5) business days after the receipt of such notice, Seller may, in Seller's sole discretion, either (I) cancel this Agreement and the sale, in which event Buyers' and Seller's obligations under this Agreement shall be terminated and Buyers shall receive a full refund of Buyers' deposit, or (II) elect to correct the item(s) that were disapproved by Buyers, in which event the sale shall proceed. Seller may correct such item by any means that will result in the Title Company either removing the disapproved exception(s) from the preliminary report or providing title insurance coverage by endorsement against such exception(s). At the close of the sale, Seller shall convey and Buyers shall accept title to the Property as shown in Schedule B of the preliminary report, subject to any corrections as in this paragraph above, free and clear of all monetary liens, subject to the terms of the within contract. Seller shall pay the costs of a CLTA Standard Owner's policy of title insurance.

4. REMOVAL OF CONTINGENCIES; COURT CONFIRMATION; CLOSING; DELIVERY OF POSSESSION. If Buyers do not give Seller written Notice of Title Disapproval as and when provided in Paragraph 3, Buyers' silence shall be deemed acceptance and Buyers shall be deemed to have satisfied and removed all of Buyers' contingencies and to proceed with the Sale. Seller shall thereafter prepare and file a motion with the Bankruptcy Court to confirm this sale. Upon such removal of contingencies, Buyers shall be unconditionally obligated to proceed with the sale, subject only to Bankruptcy Court confirmation as set forth below. If the Bankruptcy Court confirms the sale to Buyers, the closing shall take place as soon as practicable after entry of the order approving the sale, but no later than the first business day after fourteen (14) calendar days following the entry of court order approving sale. The closing shall occur on the date the deed transferring the Property to Buyers is recorded with the County Recorder where the Property is located. Occupancy shall be delivered to Buyer upon Escrow Holder's confirmation of recording.

5. BANKRUPTCY SALE. Buyers acknowledge that Seller is a fiduciary appointed to administer the above referenced bankruptcy estate, and is a party to this Agreement solely in that capacity. Seller and Brokers and agents have not and will not determine the condition or fitness for use of the Property for any particular purpose. The sale shall be "as is," "where is," "with all faults," and with no warranty by or recourse whatsoever to Seller or Brokers or agents herein. Transfer of the Property shall be by Quit Claim Deed. All parties acknowledge that Seller is a party to this Agreement solely in the capacity as fiduciary of the above referenced bankruptcy estate and that in the event of any default in the performance of any of Seller's obligations under the Offer (as modified hereby) or in the event that any other claim is asserted against the Seller, Fiduciary or the estate in connection with this transaction, the Fiduciary shall in no event have any personal liability whatsoever (whether in his individual capacity or otherwise), it being expressly understood and agreed that Buyers' sole recourse, if any, in such event shall be to the assets of such estate.

6. TAXES; PRORATIONS; COSTS OF SALE. All real property taxes and assessments for the current tax year shown in the current County Tax Bill shall be prorated between Seller and Buyers and charged as of the closing date to the applicable accounts of Seller and Buyers. The sale shall be free and clear of any homeowner's association assessments and all real property taxes (other than those prorated as provided above) enforceable against the Property through the closing date of the sale. Escrow fees shall be split between Buyers and Seller in the manner customary in the County where the Property is located. Seller shall pay any real property transfer tax. Seller shall pay the cost of a Natural Hazard Disclosure Report, from a vendor selected by Seller, to be furnished to Buyers through escrow. Buyers shall pay and have sole responsibility for compliance with any requirements imposed on the Property or this sale by any governmental agency(ies), including compliance with any applicable governmental retrofit requirements. Buyers shall pay the cost of recording the deed. Buyers and Seller shall each pay their own expenses of every other type except as specifically provided in this Agreement.

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7. **BANKRUPTCY COURT APPROVAL; OVERBIDDING.** The sale is subject to notice to creditors and approval by the Bankruptcy Court. While it is the intention of the parties that this sale not be subject to overbid, Buyers acknowledge that the Bankruptcy Court may require and could order Seller to consider higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale, if any. Payment of any and all real estate brokers' commissions is also subject to notice to creditors and approval by the Bankruptcy Court. Buyers acknowledge and agree that Seller may not seek to obtain the Bankruptcy Court's approval if Seller has determined that it would be in the best interest of the bankruptcy estate not to do so.

8. **BROKERS.** Seller is represented by Bonnie Klipperman of Leonard Smith & Associates. Buyers are represented by Mike Aon of Realty Executives All Area. Subject to Bankruptcy Court approval, seller will pay a real estate broker's commission aggregating 5.0% of net sales price of the Property to the Brokers as follows: 2.5% to Leonard Smith & Associates as the Seller's representative and 2.5% to Realty Executives All Area as the Buyers' representative in connection with the closing of this sale. All such Brokers and agents are collectively referred to herein as the "Brokers." No commission or compensation shall be due or payable to Brokers in connection with this Agreement or sale except from the cash proceeds of an actual Sale of the Property that closes to Buyers. Buyers hereby represent and warrant that, other than the Brokers, Buyers have not dealt with any broker, finder or other person entitled to any fee, commission or other compensation in connection with the Sale and Buyers shall indemnify, defend and protect and hold Seller and the related bankruptcy estate harmless of, from and against any claims, demands, actions, causes of action, losses, liabilities and costs and expenses (including, without limitation, all court costs and reasonable attorneys' fees) as Seller may suffer or incur in the event that any claims for such fees, commissions or other compensation of any kind are hereafter asserted.

9. **MATERIAL CHANGE OF CONDITION.** In the event of any material change in the condition of the Property after the date of acceptance of this Agreement, if Buyers demand repair of any resulting actual damage to the Property, Seller may, at Seller's sole option: (a) elect to terminate this Agreement, in which event Buyers' and Seller's obligations to buy or sell shall terminate and the full Initial Deposit shall be refunded to Buyers; or (b) make required repairs at the bankruptcy estate's expense; or (c) assign any insurance proceeds for the damage of the Property to Buyers as of the close of the sale; or (d) credit the cost of such repairs to Buyers through escrow, it being agreed that in the event that Seller elects and complies with subpart 9(b), (c) or (d), Buyers' obligation to proceed with the Sale shall be unaffected by any such material change in the condition of the Property.

10. **REMEDY FOR BUYERS' OR SELLER'S FAILURE TO CLOSE.** Buyers' sole remedy in the event that the sale fails to close as a result of Seller's inability or failure to close for any reason, including but not limited to the reason of failure to obtain approval for the sale by the Bankruptcy Court, shall be the mutual release of Buyers' and Seller's obligations to buy or sell and a full refund of the Initial Deposit (plus any increase thereof by Buyers). In the event Buyers fail to close the sale for any reason other than Seller's default, after Buyers' contingencies have been removed as under Paragraphs 2, 3 and 4, Buyers' Initial Deposit (plus any increase, thereof by Buyers) shall be paid over to Seller and retained by Seller as liquidated damages without further legal action. This provision shall apply equally to the Initial Deposit (and any increase, thereof by Buyer).

LT ST
[Buyers' Initials]

11. **BANKRUPTCY COURT JURISDICTION.** The United States Bankruptcy Court for the Southern District of California shall have sole and exclusive jurisdiction to interpret and enforce the terms of this Agreement and Buyers hereby consent and submit to such exclusive jurisdiction. This Agreement shall be interpreted and enforced pursuant to the laws of the United States of America including the Bankruptcy Code, Title 11, United States Code.

12. **"AS-IS," "WHERE-IS" CONDITION; NO WARRANTIES.** Buyers acknowledge and agree that, to the maximum extent permitted by law, the sale contemplated by this Agreement is made "as-is," "where-is," and "with all faults," except as specifically provided in this Agreement. Seller and Brokers

and agents herein have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, concerning or respecting (i) value of the Property; (ii) income to be derived from the Property; (iii) suitability of the Property, or lack thereof for any activity or use which Buyers may intend to conduct thereon, including any possibilities or limitations for future development; (iv) habitability, merchantability, profitability, or fitness for a particular purpose, of the Property, or lack thereof; (v) manner, quality, state of repair, or lack of repair of the Property; (vi) nature, quality, or condition of the Property, or any portion, system, or component thereof, including without limitation, water, soil, and geology; (vii) compliance of the Property or its operation, or lack thereof, with any laws, ordinances, regulations, rules, or orders of any applicable governmental authority or body; (viii) manner or quality of engineering, design, construction or materials, if any, incorporated into the Property; (ix) compliance or lack of compliance with any land use, building and safety, or other laws, ordinances, regulations, rules, orders, or other requirements imposed or enforced by any governmental or non-governmental body, including without limitation the Americans with Disabilities Act of 1990; (x) the presence or absence at, on, under, or adjacent to the Property, of materials described as "hazardous substances, hazardous materials, or toxic substances" or by similar terms under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §§9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S. Code §§1801, et seq.), the Resource Conservation and Recovery Act (42 U.S. Code §§6901, et seq.), the Toxic Substance Control Act (15 U.S. Code §2601, et seq.), the Clean Water Act (33 U.S. Code §1251, et seq.), California Health and Safety Code §§25117 or 25316, or other statutes and laws, all as amended and including all regulations issued thereunder; (xi) the content, completeness or accuracy of any Due Diligence materials or Preliminary Report regarding Title to the Property; (xii) the conformity or lack of conformity of the Property to past, current, or future applicable zoning or building requirements; (xiii) any deficiency of any undershoring, drainage, or other aspects, systems, or components of or affecting the Property; (xiv) the fact, if applicable, that all or a portion of the Property may be located on or near any natural hazard zone as determined by any governmental agency or body; (xv) the existence of vested land use, zoning, or building entitlements affecting the Property or any other property; or (xvi) any other matter. Without in any manner limiting the foregoing, Buyers hereby acknowledge and agree that (i) Seller's Broker has provided (and will hereafter provide) to Buyers various materials and information relating to the Property, including, without limitation, information and materials relating to the condition of the Property, and (ii) all such materials and information so provided to Buyers by Seller's Broker shall, for all purposes of this Agreement, be deemed to have been disclosed to Buyers by the Seller, as well.

13. **BROKERS' INSPECTIONS.** Brokers and agents herein have not and will not perform any inspections, investigations, or due diligence on behalf of Buyers unless otherwise specified herein. Buyers are informed that Buyers must arrange for any inspections and investigations desired by Buyers utilizing suitable third party professionals selected and compensated by Buyers. In no event shall Seller have any liability or responsibility for any representation, warranty, statement made, or information furnished by Brokers or agents herein, or any other person or entity, concerning the Property, this Agreement, or any other matter, unless expressly set forth in writing and signed personally by Seller.

14. **OPPORTUNITY TO INSPECT; BUYERS' SOLE RELIANCE.** Buyers represent, warrant, acknowledge, and agree that Buyers have been given the opportunity to inspect and investigate the Property and all other facts and circumstances deemed by Buyers relevant and significant, and to review information and documentation affecting the Property. In deciding to proceed with the sale, Buyers are relying solely on Buyers' own inspections and investigation of the Property (including any outside professionals whom Buyers have elected to engage for such services) and review of such information and documentation, and not on any information provided or to be provided by Seller. Buyers further acknowledge and agree that any information made available to Buyers or provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources and that neither Seller nor the Brokers and agents herein nor any other person has made or makes any representations as to the accuracy or completeness of such information. Buyers hereby fully and irrevocably release all such sources and preparers of information and documentation affecting the Property which were retained or engaged by Seller or Brokers or agents from any and all claims that Buyers may now or hereafter have against such sources and preparers of information, for any costs, expenses, losses, liabilities, damages,

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demands, actions, or causes of action arising from any such information or documentation. NEITHER SELLER NOR BROKERS HAVE PROVIDED OR WILL PROVIDE ANY LEGAL OR TAX ADVICE TO BUYER. Buyers are informed that Buyers must obtain any such advice, if desired by Buyers, from independent professionals selected and engaged by Buyers.

15. PHYSICAL, GEOLOGICAL, PEST CONTROL, AND ENVIRONMENTAL INSPECTIONS AND INVESTIGATIONS.

A. BUYERS SHALL CONDUCT THOROUGH PHYSICAL, GEOLOGICAL, PEST CONTROL, AND ENVIRONMENTAL INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS MAY BE DETERMINED BY BUYER, THROUGH QUALIFIED PROFESSIONALS SELECTED BY BUYER. Seller and Brokers and agents herein strongly recommend the Buyers fully exercise and not waive such inspections and investigations.

B. Buyers shall select and employ, at Buyers' expense, a licensed engineer(s), architect(s), contractor(s), geologist(s), pest control licensee(s), environmental consultant(s), or other qualified professional(s) to make inspection(s) and investigations of the Property including, but not limited to, (i) its general structure, plumbing, heating, air conditioning (if any), electrical system, built-in appliances, cesspool/sewer/septic system, well, roof, soils, foundation, mechanical systems, pool, spa, related equipment and filters, sprinklers, and those other matters affecting the desirability of the Property (all if and only to the extent any such structures, systems, and components are presently a part of the Property); (ii) any actual or potential wood destroying pests or other conditions damaging to the Property or any portion thereof; (iii) environmental hazards, substances, products, or conditions, including without limitation, asbestos, formaldehyde, lead, lead-based paint, contaminated soil or water, fuel, chemical storage tanks, hazardous waste, electromagnetic fields, and radon gas, any of which constitute a health risk; (iv) the presence or absence of any required governmental permits, inspections, applications, approvals, and certificates of occupancy, and compliance or lack of compliance with building codes and laws applicable to the Property; (v) plans and specifications for the Property; (vi) all applicable zoning, municipal, county, state, and federal, including those affecting the past, present, or any future use of the Property; (vii) deed restrictions and other matters of public record which may govern, restrict, condition, or prohibit the use, alteration, or development of the Property; and (viii) generally, without limitation, any and all other times and matters of whatsoever nature, character, or description, which Buyers deems material to Buyers' interests, in, on, or affecting the Property; and to approve or disapprove said inspection within the period and in the manner set forth in this agreement.

16. COMPLETE AGREEMENT; NO OTHER REPRESENTATIONS OR WARRANTIES. Seller shall not be liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Property or the operation thereof, furnished by any real estate broker, agent, employee, contractor, or other person. Buyers further acknowledge and agree Seller has no obligations to make repairs, replacements, or improvements except as may otherwise be expressly stated herein. Without limiting any other provision hereof, Buyers represent, warrant and covenant to Seller that, except for Seller's express representations and warranties specified in this Agreement, Buyers are relying solely upon Buyers' own investigation of the Property.

17. WRITTEN AFFIRMATION OF SELLER REQUIRED. Buyers understand that Seller may continue to receive and respond to other offers on the same Property and may be making several counter-offers concurrently containing the same or different terms. This Agreement shall not be binding until accepted by Buyers and executed by Buyers and Seller on the signature page below; and then approved by Seller, in Seller's sole discretion, in the form of the Seller's Affirmation of Agreement attached hereto as Exhibit "A" which, if so executed by Seller, will constitute Seller's agreement that Seller will sell the Property to Buyers, subject to Bankruptcy Court approval, the rights of any overbidding parties, and the terms and conditions of this Agreement. Buyers further acknowledge that it would be imprudent and unrealistic to rely upon the expectation of entering into a binding agreement regarding the subject matter of this Agreement prior to receipt of Seller's Affirmation of Agreement, and further represents to Seller that any efforts to complete due diligence, to negotiate or obtain financing, or to perform any of the obligations provided herein shall not be considered as evidence of binding intent.

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without Seller's Affirmation of Agreement, and understands that BUYERS' ACCEPTANCE HEREOF SHALL HAVE NO FORCE OR EFFECT PRIOR TO BUYERS' RECEIPT OF SUCH AFFIRMATION OF AGREEMENT SIGNED BY SELLER.

18. ATTORNEY'S FEES. In the event that either party hereto brings an action or other proceeding to enforce or interpret the terms and provisions of this Agreement, the prevailing party in that action or proceeding shall be entitled to have and recover from the non-prevailing party all such fees, costs and expenses (including, without limitation, all court costs and reasonable attorneys' fees) as the prevailing party may suffer or incur in the pursuit or defense of such action or proceeding.

19. LOAN CONTINGENCY. Buyers' offer is subject to financing. Buyer agrees to waive any financing contingency within the time deadline set forth at Section 2 of this Agreement.

EXPIRATION OF AGREEMENT. This Agreement shall expire if not accepted by Buyers by delivering a copy hereof, fully signed and initialed by Buyer, to Seller on or before 5:00 p.m. on June 3, 2017. Such acceptance shall nevertheless be subject to Paragraph 17.

AGREED AND ACCEPTED:

"BUYERS"
6/1/2017

Dated: _____

By: DocuSigned by:
Lawrence E Tomicich
Lawrence E Tomicich [Print Name]

Dated: 6/1/2017

By: DocuSigned by:
Silvia Tomicich
Silvia Tomicich [Print Name]

"SELLER" (subject to Paragraph 17)

Dated: 6/31/17

By: Christopher R. Barclay

Christopher R. Barclay, solely in his capacity as
Post Confirmation Estate Fiduciary for the Bankruptcy Estate of
James Marvin Roth

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EXHIBIT "A"

SELLER'S AFFIRMATION OF AGREEMENT

Seller hereby ncknowledges Buyers' acceptance of the foregoing Agreement and affirmatively agrees to sell the Property to Buyers on the terms and conditions of the foregoing Agreement, but subject to Bankruptcy Court approval and rights of any overbidders. Seller shall revoke any other outstanding offers made to other prospective buyers or make the same subject and subordinate to this agreement.

"SELLER"

Dated: 6/1/17

By: Christopher R. Barclay

Christopher R. Barclay, solely in his capacity as
Post Confirmation Plan Fiduciary for the Bankruptcy
Estate of James Marvin Roll

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CALIFORNIA ASSOCIATION OF REALTORS®

RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (C.A.R. Form RPA-CA, Revised 12/15)

Date Prepared: 06/31/2017

1. OFFER:

- A. THIS IS AN OFFER FROM Lawrence Tomicich, Silvia Tomicich ('Buyer').
B. THE REAL PROPERTY to be acquired is 6092 Guaya Lano, La Mesa, CA 91942-6305, situated in La Mesa (City), San Diego (County), California, 91942-6305 (Zip Code), Assessor's Parcel No. 470-111-36-01 ('Property').
C. THE PURCHASE PRICE offered is Four Hundred Fifteen Thousand Dollars \$ 415,000.00
D. CLOSE OF ESCROW shall occur on (date) or 45 Days After Acceptance.
E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent Leonard Smith & Associates (Print Firm Name) is the agent of (check one): [X] the Seller exclusively; or [] both the Buyer and Seller. Selling Agent Realty Executives All Area (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): [X] the Buyer exclusively; or [] the Seller exclusively; or [] both the Buyer and Seller.
C. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a "Potential Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

3. FINANCE TERMS:

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 5,000.00
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, [] cashier's check, [] personal check, [] other within 3 business days after Acceptance (or [] Buyer Deposit with Agent: Buyer has given the deposit by personal check (or [] to the agent submitting the offer (or to []), made payable to [] with Escrow Holder within 3 business days after Acceptance (or []).

Deposit checks given to agent shall be an original signed check and not a copy. (Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)

- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ [] within [] Days After Acceptance (or []). If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the line the increased deposit is delivered to Escrow Holder.

- C. [] ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or [] Buyer shall, within 3 (or []) Days After Acceptance, Deliver to Seller such verification.

D. LOAN(S):

- (1) FIRST LOAN: In the amount of \$ 332,000.00 This loan will be conventional financing or [] FHA, [] VA, [] Seller financing (C.A.R. Form SFA), [] assumed financing (C.A.R. Form AFA), [] Other. This loan shall be at a fixed rate not to exceed [] % or, [] an adjustable rate loan with initial rate not to exceed [] %. Regardless of the type of loan, Buyer shall pay points not to exceed [] % of the loan amount.
(2) [] SECOND LOAN in the amount of \$ [] This loan will be conventional financing or [] Seller financing (C.A.R. Form SFA), [] assumed financing (C.A.R. Form AFA), [] Other. This loan shall be at a fixed rate not to exceed [] % or, [] an adjustable rate loan with initial rate not to exceed [] %. Regardless of the type of loan, Buyer shall pay points not to exceed [] % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified in 3D(1), Buyer has 17 (or []) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this Agreement.

E. ADDITIONAL FINANCING TERMS:

- F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 78,000.00 to be deposited with Escrow Holder pursuant to Escrow Holder Instructions.
G. PURCHASE PRICE (TOTAL): \$ 415,000.00

Buyer's Initials (LS) (ST)

Seller's Initials (CY) ()

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 1 OF 10)

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Property Address: 6092 Guava Lane, Ln Mesa, CA 91942-5305 Date: May 31, 2017

H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (Verification attached.)

I. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (or Is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or) Days After Acceptance.

J. LOAN TERMS:

(1) LOAN APPLICATIONS: Within 3 (or) Days After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (Letter attached.)

(2) LOAN CONTINGENCY: Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement.

(3) LOAN CONTINGENCY REMOVAL:

Within 21 (or 17) Days After Acceptance, Buyer shall, as specified in paragraph 14, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.

(4) NO LOAN CONTINGENCY: Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.

(5) LENDER LIMITS ON BUYER CREDITS: Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.

K. BUYER STATED FINANCING: Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. SALE OF BUYER'S PROPERTY:

A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.

OR B. This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. ADDENDA AND ADVISORIES:

A. ADDENDA:

<input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO)	<input type="checkbox"/> Addendum # <u> </u> (C.A.R. Form ADM)
<input type="checkbox"/> Geoplo, Well and Property Monument Addendum (C.A.R. Form SWP1)	<input type="checkbox"/> Court Confirmation Addendum (C.A.R. Form CCA)
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)	<input checked="" type="checkbox"/> Other Addendum to Purchase Agreement

B. BUYER AND SELLER ADVISORIES:

<input type="checkbox"/> Probate Advisory (C.A.R. Form PA)	<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input checked="" type="checkbox"/> Statwide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
	<input checked="" type="checkbox"/> Other Market Conditions Advisory

6. OTHER TERMS: Seller to provide Buyer(s) with Tormito Clearance- Section 1 to be paid by Seller 1 and Section 2 to be paid by Buyer.

7. ALLOCATION OF COSTS

A. INSPECTIONS, REPORTS AND CERTIFICATES: Unless otherwise agreed in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.

(1) Buyer Seller shall pay for a natural hazard zone disclosure report, including tax environmental Other: prepared by Sellers Choice

(2) Buyer Seller shall pay for the following Report Post & Organism pursuant to Paragraph 12A prepared by A registered structural Pest Control Company

(3) Buyer Seller shall pay for the following Report prepared by

Buyer's Initials (BT) (ST)

Seller's Initials (G) ()

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 2 OF 10)

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Property Address: 5092 Quova Lane, La Mesa, CA 91942-6305 Date: May 31, 2017

B. GOVERNMENT REQUIREMENTS AND RETROFIT:

- (1) Buyer Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
- (2) (i) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
 (ii) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
 (iii) Buyer shall be provided, within the time specified in paragraph 14A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:

- (1) (a) Buyer Seller shall pay escrow fee 50/50
 (b) Escrow Holder shall be Enton Escrow or Sellers Choice
 (c) The Parties shall, within 5 (or) Days After receipt, sign and return Escrow Holder's general provisions.
- (2) (a) Buyer Seller shall pay for owner's title insurance policy specified in paragraph 13E
 (b) Owner's title policy to be issued by Title 366 or Sellers Choice
 (Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

- (1) Buyer Seller shall pay County transfer tax or fee
- (2) Buyer Seller shall pay City transfer tax or fee
- (3) Buyer Seller shall pay Homeowners' Association ("HOA") transfer fee
- (4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4526.
- (5) Buyer Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
- (6) Buyer to pay for any HOA certification fee.
- (7) Buyer Seller shall pay for any private transfer fee
- (8) Buyer Seller shall pay for Transaction Coordinator fee of \$495.00
- (9) Buyer Seller shall pay for
- (10) Buyer Seller shall pay for the cost, not to exceed \$ 525.00, of a standard (or upgraded) one-year home warranty plan, issued by Old Republic Home Protection - CRES, with the following optional coverages: Air Conditioner Pool/Spa Other: _____
 Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.
 OR Buyer waives the purchase of a home warranty plan. Nothing in this paragraph precludes Buyer's purchasing a home warranty plan during the term of this Agreement.

O. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the M.S. flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in paragraph B or C.

B. ITEMS INCLUDED IN SALE: Except as otherwise specified or disclosed,

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remotes, controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms and the following if checked: all stove(s), except _____; all refrigerator(s) except _____; all washer(s) and dryer(s), except _____;
- (3) The following additional items: As per MLS dated: 6/31/17
- (4) Existing integrated phone and home automation systems, including necessary components such as Intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are (are NOT) included in the sale.
- (5) LEASED OR LIENED ITEMS AND SYSTEMS: Seller shall, within the time specified in paragraph 14A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item, Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 14B and C.
- (6) Seller represents that all items included in the purchase price, unless otherwise specified, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to 8B(5) and _____, and (ii) are transferred without Seller warranty regardless of value.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: (i) audio and video components (such as flat screen TVs, speakers and other items) if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component or item is attached to the Property; (ii) furniture and other items secured to the Property for earthquake purposes; and (iii) _____

_____ Brackets attached to walls, floors or ceilings for any such component, furniture or item shall remain with the Property (or will be removed and holes or other damage shall be repaired, but not painted).

Buyer's Initials () ()

Seller's Initials () ()

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 3 OF 10)

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DocuSign Envelope ID: AF862D95-DE2E-46CD-9060-071F85021F08

Property Address: 5092 Guava Lane, La Mesa, CA 91042-5305

Date: May 31, 2017

9. CLOSING AND POSSESSION:

- A. Buyer intends (or does not intend) to occupy the Property as Buyer's primary residence.
- B. Seller-occupied or vacant property: Possession shall be delivered to Buyer: (i) at 6 PM or (AM/ PM) on the Date of Close Of Escrow; (ii) no later than ___ calendar days after Close Of Escrow; or (iii) at ___ AM/ PM on _____.
- C. Seller remaining in possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as C.A.R. Form SIP, for Seller continued occupancy of less than 30 days, C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.
- D. Tenant-occupied property: Property shall be vacant at least 6 (or ___) Days Prior to Close Of Escrow, unless otherwise agreed in writing. Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.

OR Tenant to remain in possession (C.A.R. Form T1P).

- E. At Close Of Escrow: Seller assigns to Buyer any assignable warranty rights for items included in the sale; and Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.
- F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and Intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

10. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer: (i) If required by Law, a fully completed Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordinance location (C.A.R. Form SPQ or ESD).
- (2) Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Broker.
- (3) Note to Buyer and Seller: Waiver of Statutory and Lead Disclosures is prohibited by Law.
- (4) Within the time specified in paragraph 14A, (i) Seller, unless exempt from the obligation to provide a TDS, shall, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ); (ii) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with an Exempt Seller Disclosure (C.A.R. Form ESD).
- (5) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
- (6) In the event Seller or Listing Broker, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.
- (7) If any disclosure or notice specified in paragraph 10A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After Delivery in person, or 5 Days After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- B. NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS: Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet, and home energy rating pamphlet; (ii) disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; and Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. WITHHOLDING TAXES: Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
- D. MEGAN'S LAW DATABASE DISCLOSURE: Notice Pursuant to Section 200.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)
- E. NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES: This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at http://www.npms.plmms.dot.gov/. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.
- F. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:
 (1) SELLER HAS: 7 (or ___) Days After Acceptance to disclose to Buyer if the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or ESD).

Buyer's initials (LS) (ST)
RPA-CA REVISED 12/16 (PAGE 4 OF 10)

Seller's initials (JS) (_____)



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 4 OF 10)

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5092 Guava Lane

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Date: May 31, 2017

(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or ___) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"), (vi) private transfer fees; (vii) Pet fee restrictions; and (viii) smoking restrictions. Seller shall itemize and deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

- 11. **CONDITION OF PROPERTY:** Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debts and personal property not included in the sale shall be removed by Close Of Escrow.
 - A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
 - B. Buyer has the right to conduct Buyer Investigations of the Property and, as specified in paragraph 14B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make repairs or take other action.
 - C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current law, or have had permits issued.

- 12. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
 - A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to: (i) a general physical inspection; (ii) an inspection specifically for wood destroying pests and organisms (any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infestations (Section 1) and for conditions likely to lead to infestation or infestation (Section 2); (iii) inspect for lead-based paint and other lead-based paint hazards; (iv) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA); (v) review the registered sex offender database; (vi) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; and (vii) review and seek approval of leases that may need to be assumed by Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made; invasive or destructive Buyer Investigations, except for minimally invasive testing required to prepare a Pest Control Report; or inspections by any governmental building or zoning inspector or government employee, unless required by law.
 - B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete copies of all such investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
 - C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
 - D. Buyer indemnify and hold Seller harmless for entry upon property; Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

- 13. **TITLE AND VESTING:**
 - A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
 - B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: (i) monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
 - C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
 - D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

Buyer's Initials (LT) (ST)
RPA-CA REVISED 12/16 (PAGE 5 OF 10)

Seller's Initials (GT) (_____)



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 5 OF 10)

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5092 Guava Lane

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Property Address: 5092 Guava Lane, La Mesa, CA 91942-6305

Date: May 31, 2017

- E. Buyer shall receive a CLTA/ALTA "Homeowner's Policy of Title Insurance", if applicable to the type of property and buyer. If not, Escrow Holder shall notify Buyer. A title company can provide information about the availability, coverage, and cost of other title policies and endorsements. If the Homeowner's Policy is not available, Buyer shall choose another policy, instruct Escrow Holder in writing and shall pay any increase in cost.
- 14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).
 - A. SELLER HAS: 7 (or) Days After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 6, 6, 7, 8B(6), 10A, B, C, and F, 11A and 13A. If, by the time specified, Seller has not Delivered any such item, Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement.
 - B. (1) BUYER HAS: 17 (or 12) Days After Acceptance, unless otherwise agreed in writing, to: (i) complete all Buyer investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(6), and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 10A.
 - (2) Within the time specified in paragraph 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
 - (3) By the end of the time specified in paragraph 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 14A, then Buyer has 6 (or) Days After Delivery of any such items, or the time specified in paragraph 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
 - (4) Continuation of Contingency: Even after the end of the time specified in paragraph 14B(1) and before Seller cancels, if at all, pursuant to paragraph 14D, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 14D(1).
 - (5) Access to Property: Buyer shall have access to the Property to conduct inspections and investigations for 17 (or) Days After Acceptance, whether or not any part of the Buyer's investigation Contingency has been waived or removed.
 - C. REMOVAL OF CONTINGENCIES WITH OFFER: Buyer removes the contingencies specified in the attached Contingency Removal form (C.A.R. Form CR). If Buyer removes any contingency without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Broker.
 - D. SELLER RIGHT TO CANCEL:
 - (1) Seller right to Cancel; Buyer Contingencies: If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
 - (2) Seller right to Cancel; Buyer Contract Obligations: Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): (i) Deposit funds as required by paragraph 3A, or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; (ii) Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); (iii) Deliver a letter as required by paragraph 3J(1); (iv) Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 3C or 3H; (v) In writing assume or accept leases or liens specified in 8B5; (vi) Return Statutory and Lead Disclosures as required by paragraph 10A(6); or (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 21B; or (viii) Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
 - E. NOTICE TO BUYER OR SELLER TO PERFORM: The NBP or NSP shall: (i) be in writing; (ii) be signed by the applicable Buyer or Seller; and (iii) give the other Party at least 2 (or) Days After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP are not to be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 14.
 - F. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES: If Buyer removes, in writing, any contingency or cancellation right, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: (i) completed all Buyer investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
 - G. CLOSE OF ESCROW: Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: (i) be signed by the applicable Buyer or Seller; and (ii) give the other Party at least 3 (or) Days After Delivery to close escrow. A DCE may not be Delivered any earlier than 3 Days Prior to the scheduled close of escrow.
 - H. EFFECT OF CANCELLATION ON DEPOSITS: If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, release of funds will require mutual signed release instructions from the Parties, judicial decision or arbitration award. If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit. (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. A Party may be subject to a civil penalty of up to \$1,000 for refusal to sign cancellation instructions. If no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1067.3),

Buyer's Initials () ()
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Seller's Initials () ()



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 6 OF 10)

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Property Address: 6092 Guaya Lano, La Mesa, CA 91942-5305

Date: May 31, 2017

15. FINAL VERIFICATION OF CONDITION: Buyer shall have the right to make a final verification of the Property within 8 (or) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
10. REPAIRS: Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following any Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.
17. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
10. BROKERS:
- A. COMPENSATION: Seller or Buyer, or both, as applicable, agree to pay compensation to Broker as specified in a separate written agreement between Broker and the Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and the Seller or Buyer.
- B. SCOPE OF DUTY: Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
19. REPRESENTATIVE CAPACITY: If one or more Parties is signing this Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 31 or 32 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall deliver to the other Party and Escrow Holder, within 3 Days After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.6), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
20. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:
- A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10C, 13, 14G, 17, 10A, 18, 20, 26, 29, 30, 31, 32 and paragraph D of the section titled Real Estate Brokers on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 18A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 (or) Days, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 10 or elsewhere in this Agreement.
- B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days After Acceptance (or). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

Buyer's Initials (lt) (st)
RPA-CA REVISED 12/15 (PAGE 7 OF 10)

Seller's Initials (Y) ()



CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 7 OF 10)

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6092 Guaya Lane

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Property Address: 5092 Guava Lane, La Mesa, CA 91942-5305

Date: May 31, 2017

- C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 18A and paragraph D of the section titled Real Estate Brokers on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 18A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.
- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

21. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Except as provided in paragraph 14H, release of funds will require mutual, signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT THE TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).

Buyer's Initials BT / ST

Seller's Initials _____ / _____

22. DISPUTE RESOLUTION:

- A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Real Estate Mediation Center for Consumers (www.consumermediation.org) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. Exclusions from this mediation agreement are specified in paragraph 22C.

B. ARBITRATION OF DISPUTES:

The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 22C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials BT / ST

Seller's Initials _____ / _____

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

- (1) EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2905; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.

Buyer's Initials (X) (ST)

Seller's Initials (B) (_____)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 8 OF 10)

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5092 Guava Lane

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Property Address: 5092 Guaya Lajo, La Mesa, CA 91942-5305

Date: May 31, 2017

(2) PRESERVATION OF ACTIONS: The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.

(3) BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.

23. SELECTION OF SERVICE PROVIDERS: Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.

24. MULTIPLE LISTING SERVICE ("MLS"): Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.

25. ATTORNEY FEES: In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 22A.

26. ASSIGNMENT: Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller. (C.A.R. Form A0AA).

27. EQUAL HOUSING OPPORTUNITY: The Property is sold in compliance with federal, state and local anti-discrimination laws.

28. TERMS AND CONDITIONS OF OFFER:

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initiated by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initiate, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

29. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES: Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing signed by Buyer and Seller.

30. DEFINITIONS: As used in this Agreement:

A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.

B. "Agreement" means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when signed by all Parties.

C. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the parties.

D. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded.

E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.

F. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.

G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.

H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.

I. "Deliver", "Delivered" or "Delivery", unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the Individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 10, regardless of the method used (i.e., messenger, mail, email, fax, other).

J. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.

K. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.

L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retitling of the Property provided for under this Agreement.

M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.

31. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by Mike Aon who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by AM/ PM, on _____ (date)).

One or more Buyers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-8) for additional terms.

Date _____ BUYER Lawrence E Tomlatch Buyer 5/31/2017

(Print name) Lawrence Tomlatch

Date _____ BUYER Sylvia Tomlatch Buyer 5/31/2017

(Print name) Sylvia Tomlatch

Additional Signature Addendum attached (C.A.R. Form ASA).

Seller's Initials (B) (_____)

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CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT (RPA-CA PAGE 9 OF 10)

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Property Address: 5092 Guava Lane, La Mesa, CA 91942-5305

Date: May 31, 2017

32. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, and agrees to sell the Property on the above terms and conditions. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

(If checked) SELLER'S ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED: May 31, 2017

One or more Sellers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date 5/31/17 SELLER [Signature] (Print name) Seller of record Christopher R Barclay Date SELLER (Print name)

Additional Signature Addendum attached (C.A.R. Form ASA)

(Initials) (Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) at AM/ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS: A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller. B. Agency relationships are confirmed as stated in paragraph 2. C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit. D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

ESCROW HOLDER ACKNOWLEDGMENT: Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ counter offer numbers Seller's Statement of Information and supplemental escrow instructions and the terms of Escrow Holder's general provisions. Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is Escrow Holder By Escrow # Address Date Phone/Fax/E-mail Escrow Holder has the following license number # Department of Business Oversight, Department of Insurance, Bureau of Real Estate.

PRESENTATION OF OFFER: () Listing Broker presented this offer to Seller on (date). Broker or Designee Initials

REJECTION OF OFFER: () () No counter offer is being made. This offer was rejected by Seller on (date). Seller's Initials

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Published and Distributed by REAL ESTATE BUSINESS SERVICES, INC. a subsidiary of the CALIFORNIA ASSOCIATION OF REALTORS® 625 South Virgil Avenue, Los Angeles, California 90020 RPA-CA REVISED 12/16 (PAGE 10 of 10) Buyer Acknowledges that page 10 is part of this Agreement () () Buyer's Initials Reviewed by Broker or Designee

EXHIBIT B



2275 Rio Bonito Way, Suite 160
San Diego, CA 92108
Phone: (619) 260-0015

Issuing Policies of Chicago Title Insurance Company

ORDER NO.: **00454815-002-CC1**

Escrow/Customer Phone: **(619) 260-0015**

Ticor Title Company of California
2275 Rio Bonito Way, Suite 160
San Diego, CA 92108
ATTN: Carolyn Church
Email: carolyn.church@ticortitle.com

Title Officer: **Candy Church**
Title Officer Phone: **(619) 260-5281**
Title Officer Fax: **(619) 692-9465**
Title Officer Email: **churchteam@ticortitle.com**

PROPERTY: **5092 Guava Avenue #130, La Mesa, CA 91941**

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Ticor Title Company of California** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

*The policy(s) of title insurance to be issued hereunder will be policy(s) of **Chicago Title Insurance Company**, a Nebraska Corporation.*

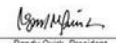

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

CHICAGO TITLE INSURANCE COMPANY

By: 
Authorized Signature



By: 
Randy Quist, President
Attest: 
Michael Gravelle, Secretary



2275 Rio Bonito Way, Suite 160
San Diego, CA 92108
Phone: (619) 260-0015

PRELIMINARY REPORT

EFFECTIVE DATE: **January 24, 2017 at 7:30 a.m.**

ORDER NO.: **00454815-002-CC1**

The form of policy or policies of title insurance contemplated by this report is:

ALTA Homeowners Policy of Title Insurance (12-2-13)
ALTA Extended Loan Policy (6-17-06)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A CONDOMINIUM, as defined in Sections 783 and 1351(f) of the California Civil Code, in fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS **VESTED IN:**

James M. Roth, a married man as his sole and separate property, subject to proceedings pending in the bankruptcy court where a petition for relief was filed and to Requirement No. 4.

Name of Debtor: James Marvin Roth
Date of Filing: May 3, 2010
U.S. District Court: Southern District of California (San Diego)
Case No: 10-07659-MM11

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

See Exhibit A attached hereto and made a part hereof.

PRELIMINARY REPORT
YOUR REFERENCE:

Ticor Title Company of California

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF **SAN DIEGO**, STATE OF **CALIFORNIA**, AND IS DESCRIBED AS FOLLOWS:

A Condominium Comprised Of:

PARCEL 1:

An undivided 1/30th Interest in and to all that portion of La Mesa [Tract No. 04-03](#), in the City of La Mesa, County of San Diego, State of California, recorded November 9, 2006 as [Map No. 15470](#), in the Office of the County Recorder of said County, shown and defined as "Common Area" on the Condominium Plan recorded November 30, 2006 as Instrument/File No. [2006-0851210](#), of [Official Records](#) of said County.

Excepting therefrom easements, as such easements are set forth in the Declaration of Covenants, Conditions and Restrictions recorded November 30, 2006 as Instrument/File No. 2006-0851211 of Official Records of said County, and any now or hereafter recorded amendments thereto.

Excepting therefrom rights to assign as exclusive use common area (as defined in Section 1351(I) of the California Civil Code) all of those portions thereof shown and defined on said Condominium Plan as garage area G-21; balcony area B-1, entry areas as defined and depicted on the plan, yard areas Y-12 and Y-13, Parking Area P-1.

PARCEL 2:

All that portion of [Map No. 15470](#) shown and defined as Units No. L-1 on said Condominium Plan.

PARCEL 3:

An exclusive use Common Area as defined in Section 1351(I) of the California Civil Code, appurtenant to Parcel 2 above, in and to garage area G-21, balcony area B-1, entry areas as defined and depicted on the plan, yard areas Y-12 and Y-13, parking areas P-1, as shown and defined on said Condominium Plan.

PARCEL 4:

Nonexclusive easements for the benefit of and appurtenant to Parcels 1 and 2 above, such easements are set forth in the Declaration of Covenants, Conditions and Restrictions Recorded November 30, 2006 as Instrument/File No. 2006-0851211 of Official Records of said County, and any now or hereafter Recorded amendments thereto (the "Declaration").

APN: **470-111-36-01**

PRELIMINARY REPORT
YOUR REFERENCE:

Ticor Title Company of California

EXCEPTIONS

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

- 1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2017-2018
- 2. Property taxes, including any personal property taxes and any assessments collected with taxes, are as follows:

Tax Identification No.: 470-111-36-01
 Fiscal Year: 2016-2017
 1st Installment: \$2,132.48 Paid
 2nd installment: \$2,132.48 Open (Delinquent after April 10)
 Penalty and Cost: \$223.24
 Homeowners Exemption: None Shown
 Code Area: 05003

- 3. Any liens or other assessments, bonds, or special district liens including without limitation, Community Facility Districts, that arise by reason of any local, City, Municipal or County Project or Special District.
- 4. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy
- 5. Water rights, claims or title to water, whether or not disclosed by the public records.
- 6. Matters contained in that certain document

Entitled: Resolution No. 9268
 Recording Date: January 28, 1964
 Recording No.: 1964-0016545, of Official Records

Reference is hereby made to said document for full particulars

- 7. The Land described herein is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the Redevelopment Plan) as disclosed by a document.

Redevelopment Agency: City of La Mesa
 Recording Date: June 25, 1987
 Recording No.: 1987-355878, of Official Records

and Recording Date: December 20, 2007
 and Recording No.: 2007-0784374, of Official Records

PRELIMINARY REPORT
YOUR REFERENCE:

Ticor Title Company of California

**EXCEPTIONS
(Continued)**

8. Matters contained in that certain document

Entitled: City of La Mesa Lien Agreement No. 1542
Recording Date: November 4, 2002
Recording No.: 2002-0982489, of Official Records

Reference is hereby made to said document for full particulars

9. Matters contained in that certain document

Entitled: Declaration of Covenant and Restrictions for Storm Water Pollution Prevention
Maintenance
Recording Date: October 25, 2006
Recording No.: 2006-0757656, of Official Records

Reference is hereby made to said document for full particulars

10. The matters set forth in the document shown below which, among other things, contains or provides for: certain easements; liens and the subordination thereof; provisions relating to partition; restrictions on severability of component parts; and covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, citizenship, immigration status, primary language, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Entitled: Declaration of Covenants, Conditions and Restrictions
Recording Date: November 30, 2006
Recording No.: 2006-0851211, of Official Records

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

Said instrument also provides for the levy of assessments, the lien of which is stated to be subordinate to the lien of a first mortgage or first deed of trust made in good faith and for value.

Modification(s) of said covenants, conditions and restrictions

Recording Date: August 22, 2007
Recording No.: 2007-0559929, of Official Records

11. Non-exclusive easements over and through the common area for ingress, egress, public utility, enjoyment, support and repair of the common area and each unit, as provided in the above mentioned declaration and as disclosed by various deeds of record.

Affects: Common Area

PRELIMINARY REPORT
YOUR REFERENCE:

Ticor Title Company of California

**EXCEPTIONS
(Continued)**

12. Matters contained in that certain document

Entitled: Notice of Non-Adversarial Procedure under Civil Code Section 912(f)
Recording Date: July 26, 2007
Recording No.: 2007-0499422, of Official Records

Reference is hereby made to said document for full particulars

13. The Land described herein is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the Redevelopment Plan) as disclosed by a document.

Redevelopment Agency: Fletcher Parkway Redevelopment Project Area
Recording Date: December 20, 2007
Recording No.: 2007-0784373, of Official Records

14. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document:

Purpose: Garage Area, Balcony Area and Entry Areas
Recording Date: February 9, 2007
Recording No.: 2007-0091812, of Official Records
Affects: said land more particularly described therein

15. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$378,750.00
Dated: May 7, 2007
Trustor/Grantor: James M. Roth, a married man as his sole and separate property
Trustee: Fidelity National Title Company
Beneficiary: Mortgage Electronic Registration Systems, Inc., solely as nominee for Mountain Express Mortgage, LC., a Limited Corporation, its successors and assigns
Loan No.: 3399990
Recording Date: May 8, 2007
Recording No.: 2007-0314149, of Official Records

Assignment of the beneficial interest under said deed of trust which names:

Assignee: Federal National Mortgage Association (Fannie Mae), a Corporation Organized and Existing Under the Laws of the United States of America
Recording Date: February 10, 2016
Recording No.: 2016-0058826, of Official Records

**EXCEPTIONS
(Continued)**

16. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$5,080.00
Debtor: James Roth
Creditor: Anice Plikaytis
Date Entered: May 26, 2009
County: San Diego
Court: Superior Court of California
Case No. 37-2009-00002872-SC-SC-CTL
Recording Date: August 7, 2009
Recording No: 2009-0442717, of Official Records

17. Notice of delinquent assessments and lien payable to the Owners' Association pursuant to the declaration herein.

Name of Declaration: Notice of Assessment Lien
Amount: \$1,346.09
Owners Association: Providence Square HOA
Recording Date: October 28, 2009
Recording No: 2009-0599320, of Official Records

18. An abstract of judgment for the amount shown below and any other amounts due:

Amount: \$9,464,349.86
Debtor: James Roth, Roth Management Corporation, Roth Construction Corporation, Talmadge East, LLC, Fairmont, LP
Creditor: Anice Plikaytis
Date Entered: December 9, 2009
County: San Diego
Court: Superior Court of California
Case No. 37-2008-00064809-CU-WT-EC
Recording Date: February 3, 2010
Recording No: 2010-0056913, of Official Records

Matters contained in that certain document

Entitled: Partial Release of Abstract Judgement
Recording Date: October 11, 2012
Recording No.: 2012-0623731, of Official Records

Reference is hereby made to said document for full particulars

PRELIMINARY REPORT
YOUR REFERENCE:

Ticor Title Company of California

**EXCEPTIONS
(Continued)**

19. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the Public Records.
- The Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage.
- The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.
20. Any rights of the parties, if other than the vestees, in possession of the Parking Space shown in the legal description herein.
21. If the Land is located within the area affected by a Geographic Targeting Order issued by FinCEN (California counties of Los Angeles, San Diego, San Francisco, Santa Clara and San Mateo), the Company must be supplied with a completed ALTA Information Collection Form ("ICF").

PLEASE REFER TO THE "INFORMATIONAL NOTES" AND "REQUIREMENTS" SECTIONS WHICH FOLLOW FOR INFORMATION NECESSARY TO COMPLETE THIS TRANSACTION.

END OF EXCEPTIONS

REQUIREMENTS SECTION

1. In order to complete this report, the Company requires a Statement of Information to be completed by the following party(s),

Party(s): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement of Information.

NOTE: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file.

2. Satisfactory evidence must be furnished from the secretary or other duly qualified officer of the Association showing that all assessments and fees, including special assessments or payments due to others, such as master associations, are paid in full through the date of closing.
3. The Company will require an affidavit signed by the seller/mortgagor certifying that there are no matters that could give rise to any defects, liens, encumbrances, adverse claims or other matters that would attach to the Land between the effective date of the report and the recording of the instruments creating the estate to be insured.
4. Furnish proof satisfactory to the Company that the proposed conveyance/mortgage necessary for the proposed insured transaction complies with all requirements of the United States Bankruptcy Code for the following person or entity:

Name of possible debtor: James Marvin Roth

END OF REQUIREMENTS

INFORMATIONAL NOTES SECTION

1. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
2. Note: Association Assessments are periodically due from holders of title to said Land to the Homeowner's Association and transfer fees may be due whenever there is a transfer of title of any of the units. In order to ascertain seller's/buyer's association assessments and transfer fee requirements prior to transfer of a unit, Escrow companies are requested to contact said Homeowner's Association.
3. Note: The Company is not aware of any matters which would cause it to decline to attach CLTA Endorsement Form 116 indicating that there is located on said Land a Condominium known as 5092 Guava Avenue Unit #130, City of La Mesa, CA, to an Extended Coverage Loan Policy.
4. Note: None of the items shown in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an ALTA Loan Policy, when issued.
5. NOTE: Ticor Title Company of California will pay Chicago Title Insurance Company 12% of the title premium, as disclosed on lines 1107 and 1108 of the HUD-1.
6. Note: The policy of title insurance will include an arbitration provision. The company of the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your title insurance coverage.

END OF INFORMATIONAL NOTES

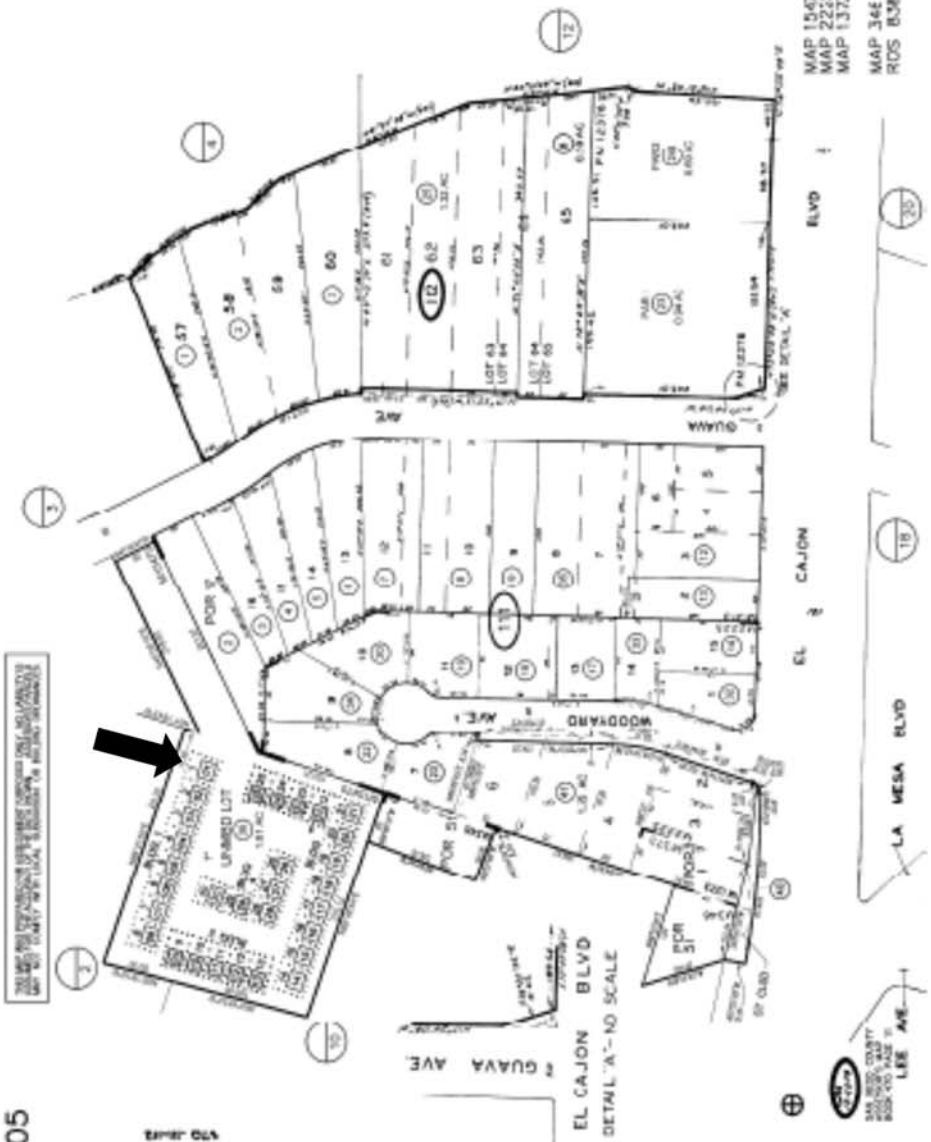
Candy Church/mt

430-11
 1"=100'

CHANGES	REVISION	DATE	BY	DESCRIPTION
1	1	02/14/17	JL	INITIAL SETTING
2	1	02/14/17	JL	INITIAL SETTING
3	1	02/14/17	JL	INITIAL SETTING
4	1	02/14/17	JL	INITIAL SETTING
5	1	02/14/17	JL	INITIAL SETTING
6	1	02/14/17	JL	INITIAL SETTING
7	1	02/14/17	JL	INITIAL SETTING
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T LORRINO
 PROFESSIONAL SURVEYOR
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MAP 10470 - LA MESA TCT NO. 04-03
 MAP 2225 - WOODYARD GROVE
 MAP 1373 - LA MESA COLONY
 MAP 346 - LA MESA COLONY
 RDS B.387, 9688



05

EMPH

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

DECLARATION OF BONNIE KIPPERMAN

I, BONNIE KIPPERMAN, hereby declare as follows:

1. I am a licensed real estate agent associated with Leonard Smith & Associates located 8807 Grossmont Blvd, La Mesa, California, telephone number (619) 463-4488 and I was retained by Christopher R. Barclay, the Fiduciary in the above-captioned bankruptcy case, regarding the contemplated sale of condominiums located at the following addresses: 1) 5088-120 Guava Avenue, La Mesa, CA; 2) 5088-121 Guava Avenue, La Mesa, CA; 3) 5084-111 Guava Avenue, La Mesa, CA; 4) 5092-130 Guava Avenue, La Mesa, CA (“Guava Units”).

2. I have personal knowledge of the matters discussed below, and if called as a witness, I could and would competently testify thereto.

3. I visited the Guava Units. Based on my inspection and review of comparable sales in the area, I informed the Fiduciary of what I believed was a fair market value. A listing agreement was entered into on January 12, 2017. The Fiduciary directed me to list Units 111, 120, 121 and 130 for \$410,000. The listing for Unit 130 was withdrawn by the Fiduciary, then relisted for \$415,000.

4. I presented the Fiduciary with an offer to purchase Guava Unit #130 for \$415,000.00 from Lawrence and Silvia Tomicich (“Buyer”). After an arm’s length negotiation, the Fiduciary and Buyer entered into a Purchase Agreement. Buyer also made a deposit to Fiduciary in the amount of \$15,000 and signed a Purchase and Sale Agreement, subject to the Court’s approval.

5. I believe based on the active marketing and the market response thereto, that the Sale Price of \$415,000 is a fair offer. In my professional opinion, I believe that the proposed sale terms set forth in the Motion are fair and reasonable and the sale should be approved.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this _ day of July 2017 in the City of San Diego, California.

BONNIE KIPPERMAN

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PROOF OF SERVICE

I, Yosina M. Lissebeck, declare as follows:

I am employed in the County of San Diego, State of California; I am over the age of eighteen years and am not a party to this action; my business address is Lissebeck Law 13223 Black Mountain Road, Suite 1350, San Diego, CA 92129, in said County and State.

On July 3, 2017, I served the following document(s):

MOTION FOR ORDER APPROVING SALE OF ESTATE'S INTEREST IN REAL PROPERTY LOCATED AT 5092-130 GUAVA AVENUE FREE AND CLEAR OF ALL LIENS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF CHRISTOPHER R. BARCLAY; AND DECLARATION OF BONNIE KIPPERMAN

on each of the interested parties stated on the attached service list.

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):

Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On July 3, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the e-mail address(es) indicated below:

Christopher R. Barclay on behalf of Other Prof. Christopher Barclay, Post-Confirmation Plan Fiduciary
cbarclay@oocrb.com

K. Todd Curry on behalf of Creditor Curry & Associates
tcurry@currylegal.com

K. Todd Curry on behalf of James Marvin Roth
tcurry@currylegal.com

K. Todd Curry on behalf of Roth Management Corporation
tcurry@currylegal.com

John W. Cutchin on behalf of Creditor Mercator Financial Group, Inc.
jcutchin@san.rr.com

John W. Cutchin on behalf of Creditor West Valley Financial Management, Inc.
jcutchin@san.rr.com

John W. Cutchin on behalf of Creditor John Cutchin
jcutchin@san.rr.com

- 1 Jonathan J. Damen on behalf of Creditor Seterus Inc. as servicer for Federal National
2 Mortgage Association bknotice@rcolegal.com, bknotice@rcolegal.com
- 3 Peter L. Duncan on behalf of Creditor California Bank & Trust
4 peterd@psdslaw.com, theresam@psdslaw.com
- 5 Kerry Eskenas on behalf of Creditor Anice M Plikaytis
6 kerry4670@gmail.com
- 7 Kerry Eskenas on behalf of Plaintiffs Anice M Plikaytis
8 kerry4670@gmail.com
- 9 Todd S. Garan on behalf of Creditor CitiMortgage, Inc.
10 ch11ecf@aldridgepite.com, tgaran@aldridgepite.com;TSG@ecf.inforuptcy.com
- 11 Todd S. Garan on behalf of Creditor Deutsche Bank National Trust Company, solely as
12 Trustee
ch11ecf@aldridgepite.com, tgaran@aldridgepite.com;TSG@ecf.inforuptcy.com
- 13
- 14 Todd S. Garan on behalf of Creditor GMAC Mortgage, LLC
ch11ecf@aldridgepite.com, tgaran@aldridgepite.com;TSG@ecf.inforuptcy.com
- 15
- 16 Todd S. Garan on behalf of Creditor Green Tree Servicing LLC
ch11ecf@aldridgepite.com, tgaran@aldridgepite.com;TSG@ecf.inforuptcy.com
- 17
- 18 Todd S. Garan on behalf of Creditor Wells Fargo Bank N.A.
ch11ecf@aldridgepite.com, tgaran@aldridgepite.com;TSG@ecf.inforuptcy.com
- 19
- 20 Jeffrey B. Gardner on behalf of Creditor Fairmount, L.P.
jeff.gardner@sbgk.com, mary.do@sbgk.com
- 21
- 22 Thomas B. Gorrill on behalf of Creditor Charles Considine
tgorrill@gorillalaw.com, r53431@notify.bestcase.com
- 23
- 24 Ben-Thomas Hamilton on behalf of Attorney Ben-Thomas Hamilton
ben@hm-lawyers.com
- 25
- 26 Ben-Thomas Hamilton on behalf of Claimant Debra Roth
ben@hm-lawyers.com
- 27
- 28 Ben-Thomas Hamilton on behalf of Interested Party Hamilton & McInnis, L.L.P.

- 1 ben@hm-lawyers.com
- 2 Rosemary Hong on behalf of Creditor Chase Home Finance LLC
3 bknotice@rcolegal.com, RCO@ecf.inforruptcy.com
- 4 Rosemary Hong on behalf of Creditor IBM Lender Business Process Services, Inc.
5 bknotice@rcolegal.com, RCO@ecf.inforruptcy.com
- 6 L. Scott Keehn on behalf of Interested Party Debra Roth
7 scottk@keehnlaw.com, scottk@keehnlaw.com;chrisf@keehnlaw.com
- 8 Katelyn Knapp on behalf of Creditor California Bank & Trust
9 ECFNotices@mclaw.org, katelynrdesbrow@gmail.com
- 10 Erin L. Laney on behalf of Creditor Citimortgage, Inc., successor by merger with ABN
11 AMRO Mortgage Group, Inc.
12 efcasb@piteduncan.com
- 13 Christopher M. McDermott on behalf of Creditor Deutsche Bank National Trust Company,
14 solely as Trustee
ch11ecf@aldridgepate.com, cmcdermott@aldridgepate.com;CMM@ecf.inforruptcy.com
- 15 Scott A. McMillan on behalf of Creditor Anice Plidaytis scott@mcmillanlaw.us,
16 scott4670@gmail.com;anicemarie2@aol.com;dimitri4670@gmail.com;jmarshall4670@gm
17 ail.com;mkaroomi4670@gmail.com;jvannoord@tmlf.us;lbrady@tmlf.us;scott@tmlf.us;sam
18 0661@gmail.com
- 19 David Ortiz on behalf of United States Trustee United States Trustee
20 david.a.ortiz@usdoj.gov, USTP.REGION15@USDOJ.GOV;tiffany.l.carroll@usdoj.gov
- 21 Edward G. Schloss on behalf of Creditor BAYVIEW LOAN SERVICING, LLC
22 egs2@ix.netcom.com
- 23 Meghan Canty Sherrill on behalf of Creditor California Bank & Trust
24 meghan.sherrill@troutmansanders.com,
Vanessa.hudak@troutmansanders.com;samantha.schuster@troutmansanders.com
- 25 Timothy J. Silverman on behalf of Creditor Amercia's Servicing Company duly authorized
26 servicing agent for Wells Fargo Bank, N.A., successor by merger to Wachovia Bank, NA its
27 successors and/or assigns
28 tsilverman@scheerlawgroup.com, missy@sgswlaw.com

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United States Trustee
ustp.region15@usdoj.gov

Michelle Volk on behalf of Creditor Anice M Plikaytis
mvolk4670@gmail.com

Alex Zarcone on behalf of Creditor Anice M Plikaytis
alexz@protectlawgroup.com, alex_zarcone@att.net

Les Zieve on behalf of Creditor Fannie Mae
bankruptcy@zievelaw.com

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL: On July 3, 2017, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows.

Anice Plikaytis 11435 Fuerte Farms Road El Cajon, CA 92020-8222	James Marvin Roth 3989 Ocean Front Walk San Diego, CA 92109	RMC: 4850 Talmadge Park Row San Diego, CA 92115
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Dated: July 3, 2017

By: /s/ Yosina M. Lissebeck
YOSINA M. LISSEBECK