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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

IN RE:	§	
	§	
KERRY BRYON NOBLE	§	CASE NO. 17-60755
P.O. BOX 903	§	
WINNSBORO, TX 75494	§	
	§	
DEBTOR.	§	CHAPTER 11

**TRUSTEE'S MOTION TO SELL PROPERTY, FREE AND CLEAR OF LIENS**

**NOW COMES JASON R. SEARCY, CHAPTER 11 TRUSTEE** for **KERRY BRYON NOBLE** (the “Trustee” and/or “Applicant”), and makes this his Motion to Sell Property, Free and Clear of Liens (the “Sale Motion”); and in support thereof respectfully represents as follows:

**YOUR RIGHTS MAY BE AFFECTED BY THE RELIEF SOUGHT IN THIS PLEADING. YOU SHOULD READ THIS PLEADING CAREFULLY AND DISCUSS IT WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. IF YOU OPPOSE THE RELIEF SOUGHT BY THIS PLEADING, YOU MUST FILE A WRITTEN OBJECTION, EXPLAINING THE FACTUAL AND/OR LEGAL BASIS FOR OPPOSING THE RELIEF.**

**NO HEARING WILL BE CONDUCTED ON THIS MOTION/OBJECTION/ APPLICATION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND**

**SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE SHOWN IN THE CERTIFICATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING WITH APPROPRIATE NOTICE. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.**

I.

1.1. The Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157. Venue is appropriate under 28 U.S.C. §§ 1409 and 1409.

II.

2.1. On October 13, 2017, Kerry Bryon Noble (the “Debtor”) filed a bankruptcy case under chapter 11 of title 11 under the United States Bankruptcy Code. On December 13, 2017 this Court Ordered the Appointment of a Chapter 11 Trustee [Dkt. #38]. On December 15, 2017, the United States Trustee filed its Notice of Appointment of Chapter 11 Trustee [Dkt. #39] naming Jason R. Searcy to serve as the Trustee. Jason R. Searcy is the duly appointed and serving Chapter 11 Bankruptcy Trustee for the above-named Debtor.

III.

3.1. A portion of the Debtor’s estate consists of real property located in Titus County, Texas, and consists of five commercial buildings, four of which are used or

configured as laundromats.

#### IV.

4.1. The Trustee has been tendered an offer of sale of the above-described properties by virtue of a Contract (the “Purchase Contract”) in the amount of \$925,050.00 (the “Purchase Price”) from PKL Investments of Pittsburg, LLC (“PKL”) whose address is 230 County Road 2208, Pittsburg, Texas 75686. A true and correct copy of the Purchase Contract is attached hereto as **Exhibit A** and incorporated herein for all purposes and contains descriptions of the properties whose sale is requested.

4.2. The Trustee desires to accept the Purchase Contract and sell the above-described properties. The sale is proposed to be free and clear of all liens, claims and encumbrances with any valid liens, claims or encumbrances attaching to the sale proceeds.

4.3. The Trustee will consider additional offers until an order approving this Sale Motion has been entered. Routine closing costs, including but not limited to, ad valorem property taxes are to be paid at closing and the balance due to Guaranty Bank as first lien holder will be paid at closing. Excess funds above the closing costs and specified payments will be held by Trustee pending further court order. Trustee has accepted \$1,250.00 from PKL as earnest money to be held in trust.

#### V.

5.1. To the best of Trustee’s knowledge and belief, the prospective purchaser,

PKL, is a disinterested party as defined in 11 U.S.C. § 101(14).

**WHEREFORE PREMISES CONSIDERED**, Trustee prays for an Order of this Court approving the sale of the above-described properties free and clear of liens, claims and encumbrances to PKL Investments of Pittsburg, LLC in accordance with the Purchase Contract attached hereto as **Exhibit A**; and for such other and further relief as is just.

**DATED** January 26, 2018.

Respectfully submitted,  
**SEARCY & SEARCY, P.C.**

/S/ Jason R. Searcy  
JASON R. SEARCY, SBN 17953500  
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JOSHUA P. SEARCY, SBN 24053468  
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ATTORNEYS FOR CHAPTER 11 TRUSTEE

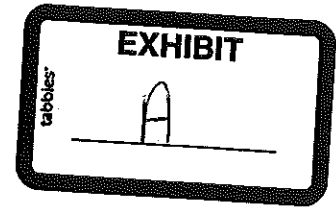
**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing document has been forwarded via electronic mail, if available, and/or via regular mail, postage prepaid to each interested party shown below; and was served via regular first class mail to each party shown on the attached Master Service List on or before January 26, 2018 by the service agent, Certificateofservice.com.

/s/ Jason R. Searcy  
Jason R. Searcy

PKL Investments of Pittsburg, LLC  
c/o Paul Sewell  
230 County Road 2208  
Pittsburg, Texas 75686.

## Contract



1. Parties; Jason R Searcy as the Trustee of Kerry Bryon Noble Case No 17-60755 Bankruptcy as Seller agrees to sell and convey to PKL Investments of Pittsburg LLC (Buyer) and/or assigns and Buyer agrees to buy from Seller the Property described below.

2. PROPERTY:

The real property situated in Titus County. Texas, located at:

- 201 East 2nd Street: City Block 167, Lot 9 Mt Pleasant, Titus County, Texas
- 504 South Jefferson: City Block 243, Lot 14, Mt Pleasant, Titus County, Texas
- 1222 North Jefferson: City Block 284, Lots 4A and 4B, Mt Pleasant, Titus County, Texas
- 403 Ferguson: French Addition, Block 1, Lot 24C and part of Lot 23, Lot 3 and part of Lot 4, Mt Pleasant, Titus County, Texas and
- 1416 North Edwards: City Block 286, Lot 4R-2, Mt Pleasant, Titus County, Texas

together with: (a) all buildings, improvements, fixtures, and all property of every kind and character and description (personal or real) owned by Seller located on, attached to, or used in connection with the Property; (b) all rights, privileges and appurtenances pertaining thereto, including any right, title, and interest of Seller in and to adjacent streets, alleys, and Right -of-way; (c) Seller's interest in and to all leases or rents and security deposits; (d) Seller's interest in and to all licenses and permits -with respect to the

Property; (e) Seller's interest in all third party warranties or guaranties; if transferable, relating to the Property or to any tangible personal property and fixtures located on attached to, or used in connection with the Property; and (f) Seller's interest in any trade names, if transferable, used in connection with the Property. The property sold by this contract is called the "Property".

NOTICE: THIS CONVEYANCE INCLUDES ALL ASSETS OF THE WASHETERIA BUSINESS CARRIED ON THE PROPERTY WEATHER LOCATED HERE ON OR STORED ELSEWHERE.

3 SALES PRICE:

(a) Cash Sales Price payable by Buyer.

\$ 925,050

4. EARNEST MONEY:

Buyer shall deposit \$ 1250 Earnest Money with Jason Searcy (Escrow Agent) on the Effective Date of this contract. If Buyer fails to deposit the Earnest Money as required by contract, Buyer shall be in default.

5. TITLE POLICY AND SURVEY:

(a) TITLE POLICY: • Seller shall furnish to Buyer at Buyer's expense an Owner Policy of Title Insurance (the Title Policy) issued \_\_\_\_\_ (the Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject only to those title exceptions permitted by this contract or as may be approved by Buyer in writing, and the standard printed exceptions contained in the promulgated form of Title

Policy; provided however that (1) the exception as to area and boundaries shall be deleted except for any shortages in area at the expense of Seller, and

(2) the exception as to restrictive covenants shall be endorsed "None of Record", unless restrictions are approved by Buyer. Within 40 days after the Title Company receives a copy of this contract Seller shall furnish Buyer commitment for Title Insurance (the Commitment) including copies of recorded documents evidencing title exceptions. Seller authorizes the title Company to deliver the Commitment and related documents to Buyer at Buyer's address. Buyer shall have 10 days after receipt of the Commitment and legible copies of documents evidencing title exceptions required by this contract to object in writing to matters disclosed in the Commitment other than the standard printed exceptions as described or limited in this paragraph. This contract shall be contingent upon Buyer being satisfied that the title and title insurance policy is clear of all liens, judgments and encumbrances and that title is correctly vested in the parties to this transaction

**(b) SURVEY REQUIRED;**

Buyer may obtain a survey of the Property at Buyer's expense.

**6. PROPERTY CONDITION/FEASIBILITY STUDIES:**

**(a) PRESENT CONDITION:**

XX (1) Buyer accepts the Property in its present "as-is" condition.

Buyer shall pay for any repairs required by a lender,

**(b) INSPECTIONS AND FEASIBILITY STUDIES:** Within 20 days after the Effective . Date of this contract Buyer, at Buyer's expense, may complete or cause to be completed inspections of the Property (including all improvements and fixtures) by inspectors of Buyers choice. Inspections may include but are not limited to: (i) physical property inspections including, but not limited to, structural pest control, mechanical, structural, electrical, or plumbing inspections; (ii) economic feasibility studies; (iii) any type of



environmental assessment or engineering study including the performance of tests such as soils tests, air sampling, or paint. sampling; and (iv) compliance inspections to determine compliance with zoning ordinances, restrictions, building codes, and statutes (e.g., ADA, OSHA, and others). Seller shall permit Buyer and Buyers inspectors access to the Property at reasonable times. Seller shall pay for turning utilities on for inspections. If Buyer determines, in Buyers sole judgment, that the Property is not suitable for any reason for Buyers intended use or is not in satisfactory condition, then Buyer may terminate this contract by providing written notice of termination and copies of all reports of inspections, studies, or assessments completed or caused to be completed by Buyer under this paragraph to Seller within the time required to complete the inspections, studies, or assessments under this paragraph, and the Earnest Money shall be refunded to Buyer.

Seller shall make a reasonable effort to furnish buyer the following:

a current rent roll of all leases affecting the Property; copies of all leases pertaining to the Property, including any modifications, supplements, or amendments to the leases; copies of all service, maintenance and management agreements relating to the ownership and operation of the Property; copies of all warranties and guaranties relating to the Property, or any part thereof, or to the tangible personal property and fixtures owned by Seller and located on, attached to or used in connection with the Property; copies of all fire, hazard, liability, and other insurance policies held by Seller on or affecting the Property; copies of all leasing or other commission agreements with respect to the Property including but not limited to: Cola/Drink Machines; a copy of the as-built plans and specifications of the Property, if available; copies of all invoices for utilities and repair expense? incurred by Seller for operation of the Property for each month for the preceding two (2) years prior to the Effective Date of this contract; a copy of Sellers income and expense statement for the Property from January 1, 2016 to January 1, 2018; and copies of all previous environmental

assessments, studies, or analyses affecting the Property in Sellers possession: copies of all surveys available to the trustee. .

## 7. CLOSING:

The closing of the sale shall be on or before \_\_\_\_\_ or within 7 days after objections to title or the survey have been cured, whichever date is later (the Closing Date); however, if financing or assumption approval has been obtained pursuant to paragraph 4, the Closing Date shall be extended up to 15 days only if necessary to comply with lenders closing instructions (for example, survey, insurance policy, property repairs, closing documents). If either party fails to close this sale by the Closing Date, the non-defaulting party shall be entitled to exercise the remedies contained in paragraph 15.

(a) At closing Seller shall furnish, at Buyer expense (strike any not to be furnished):

(1) tax statements showing no delinquent taxes on the Property (Personal

(2) a General Warranty Deed conveying good and indefeasible

title to the Property showing no additional exceptions to those permitted in paragraph 6;

(3) a Bill of Sale with warranties to title conveying title, free and clear of all liens, to any personal property defined as part of the Property in paragraph 2 and conveyed by this contract;

(4) an assignment of all leases to or on the Property duly executed by Seller;

(5) to the extent assignable, an assignment duly executed by Seller of any licenses and permits, maintenance, management or other contracts, and

any warranties or guaranties defined as part of the Property in paragraph 2 or conveyed by this contract;

(6) to the extent assignable, an assignment duly executed by Seller of any one or more of the insurance policies held by Seller pertaining to the Property; and

(7) evidence that the person executing this contract is legally capable and authorized to bind Seller.

8. POSSESSION:

Seller shall deliver possession of the Property to Buyer upon Closing and Funding, in its present or required repaired condition, ordinary wear and tear excepted. Any possession by Buyer prior to closing or Seller after closing that is not authorized by a separate written lease agreement, shall establish a landlord-tenant at sufferance relationship between the parties.

9. SPECIAL PROVISIONS:

Notwithstanding any other provisions stated herein: Within 7 days after the signing of this contract, Seller or a persona designated by Seller shall meet with Buyer to inventory all of the properties listed in this contract (including any storage facilities of the Property) to determine the inventory of personal property that is included in the sale of the Property including but not limited to all coin Operated machines, vending machines, game machines, cola/drink machines and any and all other personal property that is used in conjunction with these properties or, the Operation of these properties. All machines located on these properties, whether in use or storage are included in the sales price listed herein. An inventory of said machines will be attached hereto for a bill of sale to be completed at closing, hi the event Buyer determines that the amount of personal property does not justify the sales price of the property, Buyer shall have the right to terminate this contract.

10. SALES EXPENSES:

To be paid in cash at or prior to closing:

- (a) Seller's Expenses: Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; and other expenses stipulated to be paid by Seller under other provisions of this contract.
- (b) Buyers Expenses: All loan fees or expenses (e.g., fees for application, origination, discount, appraisal, assumption, recording, tax. service, mortgagee title policies, credit reports, document preparation and the like); title policy; tax statements or certificates; preparation of deed; escrow fee preparation and recording of deed of trust; required premiums for flood and hazard insurance; interest on all periodic installment payment notes from date of disbursements to one payment period prior to dates of first monthly payments; escrow fee; fees for copies and delivery of title commitment and related documents; and other expenses stipulated to be paid by Buyer under other provisions of this contract.
- (c) If any sales expense exceeds the amount stated in this contract to be paid by either party, either party may terminate this contract unless either party agrees to pay such excess,
- (d) Notwithstanding any other provisions herein contained, the parties hereto covenant and agree that the Buyer shall Pay all of the closing fees of this traction that include but are not limited title insurance cost, mortgagee's policy cost, guaranty fees, tax certificates, e-doc fees, escrow fees, courier fees, wire fees, document preparation fees, survey fees, appraisal fees, recording fees and all other costs and fees connected with the sale of this property from Seller to Buyer.

#### 11. PRORATIONS AND ESTOPPEL CERTIFICATES:

- (a) PRORATIONS: Insurance (at Buyer's option) if a transfer is permitted by the insurance carrier, interest on any assumed loan, current taxes, and any rents shall be prorated

through the Closing Date. If the amount of the ad valorem taxes for the year in which the sale is

closed is not available on the Closing Date, proration of taxes shall be made on the basis of taxes assessed in the previous year, with a subsequent cash adjustment of such proration to be made between Seller and Buyer, if necessary, when actual tax figures are available. If Buyer is assuming payment of or taking subject to any existing loan on the Property, all reserve deposits for the payment of taxes, insurance premiums, and other charges, shall be transferred to Buyer by Seller and Buyer shall pay to Seller the amount of such reserved deposits at closing.

12. CASUALTY LOSS AND CONDEMNATION.

(a) If any part of the Property is damaged or destroyed by fire or other casualty loss, Seller may restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller is unable to do so "without fault, Buyer may: (i) terminate this contract and the Earnest Money shall be refunded to Buyer; (ii) extend the time for performance up to 15 days and the Closing Date shall be extended as necessary; or (iii) accept the Property in its damaged condition and accept an assignment of insurance proceeds. Provisions of the Texas Property Code to the contrary shall not apply.

(b) If prior to closing condemnation proceedings are commenced against any portion of the Property, Buyer may: (i) terminate this contract by written notice to Seller within 10 days after Buyer is advised of the condemnation proceeding and the Earnest Money shall be refunded to Buyer; or (ii) appear and defend in the condemnation proceeding and any award in condemnation shall, at Buyers election, become the property of Seller and the sales price shall be reduced by the same amount or any award shall become tfre property of Buyer and the sales price shall not be reduced.

13. DEFAULT:

If Buyer fails to comply with this contract, Buyer shall be in default. Seller may either: enforce specific performance, seek other relief as may be

provided by law, or both; or terminate this contract and receive the Earnest Money as liquidated damages, thereby releasing the parties from this contract. If Seller is unable without fault to make any non-casualty repairs, deliver the estoppel certificates, or deliver the Commitment within the time allowed, Buyer may either terminate this contract and receive the Earnest Money as the sole remedy or extend the time for performance up to 15 days and the Closing Date shall be extended as necessary. If Seller fails to comply with this contract for any other reason, Seller Shall be in default and Buyer may either enforce specific performance, seek such other relief as may be provided by law, or both; or terminate this contract and receive the Earnest Money, thereby releasing the parties from this contract.


#### 14. MATERIAL FACTS:

(1) Seller is not aware of:

(i) any material defects to the Property except: None (ii) any environmental hazards or conditions which would violate any federal, state or local statutes, regulations, ordinances or other requirements and more specifically, but without limitation, whether: (1) the Property is or has ever been used for the storage or disposal of hazardous substances or materials or toxic waste, a dump site or landfill, or the housing of any underground tanks or drums; (2) radon,, asbestos insulation or fireproofing, urea formaldehyde foam insulation, lead-based paint or other pollutants or contaminants of any nature now exist or have ever existed on the Property; (3) wetlands, as defined by federal or state law or regulation are on the Property; and (4) threatened or endangered species or their habitat, as defined by the Texas Parks and Wildlife Department or the U. S. Fish and Wildlife Service, are on the property; except as follows: none

#### 15. NOTICES:

All notices shall be in writing and effective when hand-delivered, mailed by certified mail return receipt requested, or sent by facsimile transmission to:

Buyer:  Seller: \_\_\_\_\_

16. FEDERAL TAX REQUIREMENT:

If Seller is a "foreign person", as defined by applicable law, or if Seller fails to deliver an affidavit that Seller is not a "foreign person", then Buyer shall withhold from the sales proceeds at closing an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service, together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if cash in excess of specified amounts is received in the transaction.

17. AGREEMENT OF THE PARTIES:

This contract shall be binding on the parties, their heirs, executors, representatives, successors, and assigns. This contract shall be construed under and in accordance with laws of the State of Texas. This contract contains the entire agreement of the parties and cannot be changed except by written agreement. If this contract is executed in a number of identical counterparts, each counterpart is

deemed an original and all counterparts shall, collectively, constitute one agreement.

18. TIME:

Time is of the essence in this contract. Strict compliance with the times for

performance stated in this contract is required.

19. EFFECTIVE DATE:

The Effective Date of this contract for the purpose of performance of all obligations shall be the date this contract is receipted by the Escrow Agent after all parties have executed this contract

26. CONTRACT AS OFFER:

The execution of this contract by the first party constitutes an offer to buy or sell the Property.

Unless accepted by the other party by \_\_\_\_\_, 2018 the offer shall lapse and be null and void.

Signed 1-24, 2018

Buyer

A handwritten signature in cursive script, appearing to read "Paul Jewell", is written over a horizontal line.

Seller

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