

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN THE MATTER OF:	)	
	)	Case No.: 12-32540
MOSS FAMILY LIMITED PARTNERSHIP and	)	
BEACHWALK, L.P.	)	Chapter 11 Proceeding
	)	Jointly Administered
Debtors.	)	

**NOTICE OF MOTION AND OPPORTUNITY TO OBJECT**

**NOTICE IS HEREBY GIVEN** that the Debtor, Moss Family L.P., by counsel, filed on the 4th day of March, 2013, an Application to Employ Broker (the "Motion"). Said Motion seeks to appoint Beachwalk Realty, L.L.C., to sell the real estate commonly known as 113 Cottage Camp, Michigan City, Indiana 46360, and be paid a commission of 6% of the gross sales price upon closing. A copy of said Motion is attached hereto.

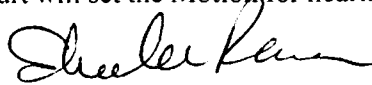
**Your rights may be affected. You should read this paper carefully and discuss this with your attorney. If you do not have an attorney, you may wish to consult one.**

If you do not want the Court to grant the relief requested in the Motion, then on or before **April 5, 2013**, you or your attorney must:

1. File a written objection to the Complaint, which should explain the reasons why you object, with the Clerk of the United States Bankruptcy Court at 204 South Main Street, South Bend, Indiana 46601.  
If you mail your objection, you must mail it early enough so that it will be received by the date it is due.
2. You must also mail a copy of your objection to: (a) United States Trustee, One Michiana Square, Suite 555, 100 East Wayne Street, South Bend, IN 46601; and (b) Sheila A. Ramacci, 9105 Indianapolis Blvd., Highland, IN 46322.

If you do not file an objection by the date it is due, the Court may grant the Motion requested without holding a hearing. If you do file an objection, the Court will set the Motion for hearing, which you or your attorney will be expected to attend.

Dated: March 15, 2013.

  
/s/ Sheila A. Ramacci  
 Sheila A. Ramacci  
 9105 Indianapolis Blvd.  
 Highland, IN 46322  
 219-922-0800

**CERTIFICATE OF SERVICE**

I certify that I served a true and complete copy of the above and foregoing instrument on this 15th day of March, 2013, upon the following:

Via electronic mail		
United States Trustee	Mark J. Adey	David Blaskovich
Rebecca Hoyte Fischer	Steven L. Hostetler	Mark R. Owens
Lisa D. Updike	David E. Woodward	

Via US Mail : All Parties Pursuant to the attached Service List

  
/s/ Sheila A. Ramacci  
 Sheila A. Ramacci

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN THE MATTER OF:	)	
	)	Case No.: 12-32540
MOSS FAMILY LIMITED PARTNERSHIP and	)	
BEACHWALK, L.P.	)	Chapter 11 Proceeding
	)	Jointly Administered
Debtors.	)	

APPLICATION TO EMPLOY BROKER

Comes now the Debtor-In-Possession, Moss Family, L.P., by counsel, and moves the Court for authority to employ Beachwalk Realty, L.L.C., as Broker, to sell certain property described as follows: **113 Cottage Camp, Michigan City, Indiana.**

A copy of the proposed Listing Contract is attached hereto, made a part hereof, and marked Exhibit "A."

That said Broker is an affiliate of the Debtors; however, the Broker represents or holds no interests which are adverse to the Estate Said Broker has no connection with creditors, any other party in interest, its respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, other than that the managing member of the Broker and the Debtor are the same.

That it is in the best interests of the estate to liquidate said asset if a fair and reasonable price can be obtained, and that said Broker is an entity with expertise and ability in the sales of property such as that which the Debtor-in-Possession wishes to sell.

WHEREFORE, Moss Family, L.P., by counsel, prays that the Court grant it authority to employ Beachwalk, L.L.C., pursuant to the terms of the Agreement attached hereto, and for all other orders deemed proper under the circumstances.

Respectfully submitted:

**DANIEL L. FREELAND & ASSOCIATES, P.C.**

By: /s/ Sheila A. Ramacci  
Sheila A. Ramacci  
9105 Indianapolis Blvd.  
Highland, IN 46322  
(219) 922-0800

**CERTIFICATE OF SERVICE**

I certify that I served a true and complete copy of the above and foregoing instrument by depositing same in the United States mail, in an envelope properly addressed to each with sufficient first-class postage affixed thereto, this 4<sup>th</sup> day of March, 2013, upon the following:

Via electronic mail:  
U.S. Trustee

Via US Mail:  
Beachwalk Realty, L.L.C., 202 Beachwalk Lane. Michigan City, IN 46360

/s/ Sheila A. Ramacci  
Sheila A. Ramacci

LISTING CONTRACT  
(EXCLUSIVE RIGHT TO SELL)

Date: 1-1-12

In consideration of services to be performed by BEACHWALK REALTY LLC  
(Broker/Company, hereinafter referred to as "Broker") for MOSS FAMILY LP

Seller appoints Broker as Seller's broker, with irrevocable and exclusive right to sell, exchange, option, or lease the real property known as 113 Cottage Camp in Michigan County, Michigan Township, (zip code) legally described as: Lot #161B, Beachwalk PHASE 3B, MICHIGAN CITY, LAPORTE, IN 46360

This contract begins on 1-1-12 1-1-13 and expires at 11:59 P.M. 12-31-12 subject to the following terms and conditions:

List Price: \$ ~~199,900~~ 196,900 Possession: DOC

Seller represents that Seller is not delinquent on any loans which could constitute a lien on the Property and the total loans affecting the Property do not exceed the list price and costs of sale. Seller is not a party to any bankruptcy proceeding. Also, Seller has the capacity to convey the Property by a general Warranty Deed or by Did the Seller acquire ownership of the property at a tax sale, Sheriff's sale, any judicial sale, or mortgage foreclosure proceeding?  Yes  No

Terms of Sale: The Property may be sold for cash or any of the following methods indicated below:  
 Conventional Mortgage  Conditional Sales Contract  
 Insured Conventional Mortgage  FHA  
 Assumption of Existing Mortgage Balance  VA  
 Other

Seller agrees to pay costs associated with financing not to exceed N/A  
Property Offered for Sale: The above list price includes the Property and all improvements and fixtures permanently installed and affixed thereto, except Items of Personal Property included in the sale: FURNISHINGS INCLUDED

(A) EXCLUSIVE LISTING. The parties understand and agree that this is an exclusive right to sell, option, exchange or lease listing, and Broker shall be entitled to the commission hereinafter established which shall be payable upon the occurrence of any of the following events:

- (1) at the time the Property is sold, optioned, exchanged or leased by any person, including the Seller, to any person during the term of this contract or any renewal or extension thereof,
- (2) at the time Seller, Broker, or any other real estate licensee secures a buyer or lessee ready, willing and able to purchase, option, exchange or lease the Property for such price and terms as specified, or such other price or terms as Seller may accept,
- (3) at the time an agreement is entered into to sell, exchange, option or lease during the term of this contract or any renewal or extension thereof, and ultimately completed after the termination of this contract,
- (4) the Property is sold, optioned, leased, or exchanged by Seller or any other person within 90 days after termination of this Listing Contract to any person procured in whole or in part by the efforts of Broker, any cooperating broker, or Seller, provided, however, this extension clause shall not apply if this Exclusive Listing Contract terminates and the Property is listed exclusively with another licensed broker, or
- (5) at the time of default by Seller to any valid, fully executed, written agreement to sell, option, exchange, or lease the Property.

Any commission required to be paid under items (1), (3) and (4) above shall be due and payable at the closing of the transaction when title to or any interest in the Property is transferred to a buyer or lessee. Any commission required to be paid under items (2) and (5) above shall be due and payable upon demand by Broker. In the event that commission is not paid when due, then Broker shall be entitled to interest at the rate of 6.0 % per annum until commission is paid.

If the Seller and a Buyer sign a Purchase Agreement, Option to Purchase Real Estate, Lease or the closing of the sale of the Property will not take place until after the term of this contract, then this contract shall automatically be extended to coincide with the closing date or term of the lease.

113 Cottage Camp, MC, IN 46360  
(Property Address)

EXHIBIT A

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(f) BROKER'S COMMISSION. The broker's commission charged by the listing broker for services rendered, with respect to any listing, is solely a matter of negotiation between Broker and Seller and is not fixed, controlled, suggested, recommended or maintained by the Indiana Association of REALTORS®, Inc., the local Board/Association of REALTORS®, the MLS (if applicable) or any person not a party to the contract. SELLER HAS BEEN ADVISED OF BROKER'S COOPERATIVE COMPENSATION POLICY.

Seller shall pay in cash to Broker for services a total commission as follows:

1. 6.0 % of the selling/exchange price or option selling price, not less than \$ N/A
2. In the event of a purchase option, the Seller agrees to compensate Broker 1.0 % of the consideration paid for an Option to Purchase.
3. In the event of a lease, the Seller agrees to compensate Broker AS INDICATED IN ATTACHED MEMORANDUM % of all amounts to be paid by a lessee to Seller over the term of the lease.
4. Other: N/A

(c) COMMISSION IS LIEN; ATTORNEY FEES. For purposes of this contract, the parties understand and agree that Broker's commission is deemed to be a share of the purchase money received by Seller, and Broker shall have a lien on the funds and a lien upon the Property until the commission is paid. If any action is filed in relation to this Listing Contract, the unsuccessful party shall pay to the successful party a reasonable sum for the successful party's attorney's fees and court costs.

(D) EARNEST MONEY. Broker is authorized to accept earnest money or any part of the purchase price and hold it in an escrow/trust account. In the event that Seller is to receive any portion of the earnest money, Seller authorizes Broker to keep any earnest money deposits up to the amount the commission would have been if the sale was completed in payment for Broker's expenses, services and advertising.

(E) MLS INFO (IF APPLICABLE). It is understood that the Broker may rely on the validity of the data pertaining to this Listing Contract which has been provided by the Seller, and the Seller agrees that Broker may disclose the data to a multiple listing service ("MLS"), Internet or any advertising media and that the Broker may furnish notice to a MLS or other provider of all changes of information concerning the Property.

(F) INFORMATION REGARDING REAL ESTATE SALES DISCLOSURE FORM (If applicable) is true and correct, and that Seller is the owner of the Property or is the authorized agent(s) of the true owner with complete and full authority to act on behalf of the owner(s). Seller further warrants that no other listing contract is now in force with any other broker. The Seller(s) or authorized agent(s) agree to indemnify, actively defend and hold Broker, Company and its agents harmless from any damages, loss, liability and expenses including attorney fees and costs, arising from incorrect information or failure to supply material information regarding the Property, including, but not limited to the condition of appliances, heating, plumbing, electrical, sewage, major defects in structure, mold and/or other environmental conditions or hazards, location of property lines, public and private restrictions on the use of the Property, any loss or liability in conjunction with this agreement or with Broker or other licensees showing the Property including, but not limited to, injuries suffered by other licensees or prospective buyers.

(G) ENVIRONMENTAL CONTAMINANTS ADVISORY/RELEASE. Seller acknowledges that Listing Broker, Selling Broker and all salespersons associated with Brokers are NOT experts and have NO special training, knowledge or experience with regard to the evaluation or existence of possible lead-based paint, radon, mold and other biological contaminants ("Environmental Contaminants") which might exist and affect the Property. Environmental Contaminants at harmful levels may cause property damage and serious illness, including but not limited to, allergic and/or respiratory problems, particularly in persons with immune system problems, young children and/or the elderly.

Seller agrees to consult with appropriate experts and accepts all risks for Environmental Contaminants and releases and holds harmless all Brokers, their companies and sales associates from any and all liability, including attorney's fees and costs, arising out of or related to any inspection, inspection report, repair, disclosed defect or deficiency affecting the Property, including Environmental Contaminants. This release shall survive the closing.

(H) AGENCY DISCLOSURES.

1. Office Policy. Seller acknowledges receipt of a copy of the written office policy relating to agency.

2. Agency Relationship. I.C. 25-34-1-10-9.5 provides that a Licensee has an agency relationship with, and is representing, the individual with whom the Licensee is working unless (1) there is a written agreement to the contrary; or (2) the Licensee is merely acting as a customer without compensation. Licensee(Broker) represents the interests of the Seller as Seller's agent to sell the Property. Licensee owes duties of trust, loyalty, confidentiality, accounting and disclosure to the Seller. However, Licensee must deal honestly with a buyer and disclose to the buyer information about the Property. All representations made by Licensee about the Property are made as the agent of the Seller.

113 Oakley Court, MC, IN 46368  
[Property Address]

Unfiled

www.zillow.com

Produced with ZipForms by ZipLogix 18070 Fleen Mile Road, Fraser, Michigan 48226

Page 3 of 4 (Listing Contract)

(Property Address)

113 Oakley Camp, MC, IN 46360

1. Seller authorizes Broker and cooperating brokers, buyer brokers, Broker's personal assistants, contractors, inspectors, appraisers and others reasonably necessary to market the Property to enter the Property. Seller acknowledges that a buyer may enter the Property with contractors, inspectors or appraisers without being accompanied by Broker. Buyer or Broker may take photos, video, photos and electronic images of the Property.

2. Seller will provide Broker with key(s) necessary to access the Property.

3. Seller authorizes Broker to have duplicate keys made.

4. Seller agrees not to rent or lease the Property during the term of this Listing Contract without written notification to Broker.

5. Seller agrees that Broker may work with buyer brokers to assist in performing Broker's duties according to the terms of this Listing Contract.

6. Seller grants to Broker an exclusive, non-revocable, copyright license to disseminate, publish, modify and reproduce all of the content of this Listing Contract, including but not limited to, price and terms of financing on a closed sale, photographs, drawings, written descriptions, narratives, and motion pictures obtained or produced by Broker and other brokers upon request and to a MLS, internet or any advertising media. Seller agrees that Broker shall own all rights, title and interest, including but not limited to, any copyright in Property images taken by Broker's photographers or agents.

7. Seller authorizes the utility companies to divulge all utility information to Broker and to provide copies of utility statements, if requested. Seller's utility companies are as follows: WIPACON UTILITIES, DIRECT

8. Seller authorizes its Homeowners Association (HOA) to divulge all HOA information to Broker and to provide copies of all HOA documents if requested.

9. Seller authorizes its lending institution to divulge all mortgage information to Broker and to provide copies of the note and mortgage, if requested. Seller's lending institution is FIRST BANK and the mortgage loan number is 920702127510

If Seller's mortgage is subject to a pre-payment penalty, Seller agrees to give timely written notice to Seller's lender that the mortgage is to be pre-paid from the sale proceeds of the Property. It is acknowledged that Seller's failure to give this notice may result in a pre-payment penalty to be paid by Seller.

10. Seller  does not authorize Broker to disclose the existence of multiple offers to Buyer. If Seller has authorized disclosure of the existence of offers on the Property, Broker shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm or by a cooperating broker. (NOTE: Disclosure of individual and company names is not necessary.)

(J) LOCKBOX/KEY AUTHORIZATION/USE. To facilitate access to the Property, a lockbox installation  is  is not authorized, subject to the following acknowledgments/conditions: subject to the following schedule.

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- 194 1. Seller will safeguard valuables. Seller accepts responsibility for preparing the Property to minimize the likelihood of
- 195 injury, damage and/or loss of personal property.
- 196 2. Seller acknowledges Broker is not an insurer of Seller's real estate and personal property and waives claims against
- 197 Broker and Broker's authorized persons for loss and/or damage. Seller further agrees to indemnify and hold harmless
- 198 Broker and all authorized persons from claims by third parties from all loss and/or damage.
- 199 3. Seller instructs Broker to make reasonable efforts to notify Seller of showing requests. If Seller cannot be contacted
- 200 to schedule a showing, Seller  authorizes  does not authorize Broker to access the Property.
- 201 4. Where a tenant/lessee occupies the Property, it is Seller's sole responsibility to obtain tenant/lessee consent to allow
- 202 the use of a lockbox/key and consent for Broker to access the property.

205 (K) FAIR HOUSING. The parties acknowledge that the Fair Housing Act prohibits discrimination in housing because of race,

206 color, national origin, religion, sex, familial status, and handicap.

208 (L) ADDITIONAL PROVISIONS.

- 210 1. Seller understands the terms of this Listing Contract and has received a copy.
- 211 2. The parties to this contract agree that it contains the entire agreement of the parties and cannot be changed except
- 212 by their written consent.
- 213 3. The parties to this contract agree that it is binding upon the parties' heirs, administrators, executors, successors and
- 214 assigns.
- 215 4. Seller acknowledges receipt of an estimate of selling expenses.
- 216 5. Seller acknowledges there are homeowner's association fees and/or assessments in the amount of \$ 2100
- 217 per year, which have been paid by Seller through 12/31/11 12-31-12
- 218 6. The parties to this contract agree that this contract may be executed simultaneously or in two or more counterparts,
- 219 each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 220 The parties agree that this contract may be transmitted between them electronically or digitally. The parties intend
- 221 that electronically or digitally transmitted signatures constitute original signatures and are binding on the parties. The
- 222 original document shall be promptly delivered, if requested.
- 223 7. Broker may refer Seller to other professionals, service providers or product vendors, including lenders, loan brokers,
- 224 title insurers, escrow companies, inspectors, pest control companies, contractors and home warranty companies.
- 225 Broker does not guarantee the performance of any service provider. Seller is free to select providers other than
- 226 those referred or recommended to Seller by Broker.
- 227 8. Broker is not and shall not be charged with the responsibility for the custody, management, care, maintenance,
- 228 protection or repair of the Property nor for the protection or custody of any personal property located thereon,
- 229 unless provided for in another written agreement.
- 230 9. Seller consents to receive communications from Broker via telephone, U.S. mail, email and facsimile at the
- 231 numbers/addresses provided to Broker unless Seller notifies Broker in writing to the contrary.
- 232 10. Where the word "Broker" appears, it shall mean "Licensee" as provided in I.C.25-34.1-10-6.8.
- 233 11. Seller discloses to Listing Broker that Seller is licensed and holds License # TB29500591

235 (M) FURTHER CONDITIONS.

236 ① Property owner is principal broker

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247 SALES PERSON/AGENT Thomas J Moss IN LICENSE # TB29500591 SELLER'S SIGNATURE \_\_\_\_\_ DATE 1-1-13

248 Benchmark Realty LLC IN LICENSE # LC19700047 PRINTED Thomas J Moss For MFLP

249 BROKER OR COMPANY NAME \_\_\_\_\_

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253 ACCEPTED BY: PRINCIPAL/MANAGING BROKER \_\_\_\_\_ SELLER'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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Approved by and restricted to use by members of the Indiana Association of REALTORS®, Inc.  
 This is a legally binding contract, if not understood seek legal advice. Form #01. Copyright IAR 2010



113 Cottage Camp, MC, IN 46360  
 (Property Address)

**MOSS/BEACHWALK  
NO: 12-32540  
COMBINED SERVICE LIST**

Alex Pennine/Nick O'Brien  
Nine East Ontario Street  
Chicago, IL 60611-2709

Alexander and Claire Gaydasch  
340 W. Diversey Parkway  
Chicago, IL 60657-6241

Bank of America  
P O Box 5171  
Simi Valley, CA 93062

Beachwalk Limited Partnership  
202 Beachwalk Lane  
Michigan City, IN 46360-1782

Beachwalk Vacation Rentals LLC  
202 Beachwalk  
Michigan City, IN 46360-1782

BKD CPAS & Advisors LLP  
1600 W Bloomfield Road  
Suite B  
Bloomington, IN 47403-2053

Dunewood Shores LP  
202 Beachwalk  
Michigan City, IN 46360-1782

Faegre Baker Daniels  
600 E. 96<sup>th</sup> Street  
Suite 600  
Indianapolis, IN 46240-3789

HAAS & Associates  
525 Franklin Square  
Michigan City, IN 46360-3328

Internal Revenue Service  
Central Insolvency Operation  
PO Box 7346  
Philadelphia, PA 19101-7346

Indiana Department of Revenue  
Bankruptcy Section, N-240  
100 North Senate Avenue  
Indianapolis, IN 46204-2253

Indiana Employment Security Division  
10 North Senate Street  
Indianapolis, IN 46204-2201

J. Richard Childers  
C/O Fedota, Childers & Rocca  
70 W. Madison St. Ste 3900  
Chicago, IL 60602-4341

John & Suzanne Turner  
55 East Pearson Street  
Unit 4801  
Chicago, IL 60611-2634

LaPorte County Treasurer  
555 Michigan Avenue, Suite 102  
LaPorte, IN 46350-3491

M. Hagenow  
916 Lincolnway  
La Porte, IN 46350-3412

Mary Horn  
1600 W. Bloomington  
Bloomington, IN 47402

Mary Dean Moss  
202 Beachwalk Lane  
Michigan City, IN 46360-1782

Moss Family LP  
202 Beachwalk  
Michigan City, IN 46360-1782

Near Northwest L P  
202 Beachwalk Lane  
Michigan City, IN 46360-1782

Office of the U.S. Attorney  
5400 Federal Plaza, Suite 1500  
Hammond, IN 46320-1843

Patrick Okell and Nien Thach  
5307 Braebun Drive  
Bellaire, TX 77401-4801

Robert & Virginia Burnstine  
584 Westwood Lane  
Glencoe, IL 60022-103767

Secretary of Treasury  
15<sup>th</sup> & Pennsylvania Avenue  
Washington, DC 20220-0001

Securities & Exchange Commission  
Bankruptcy Section  
175 W. Jackson, Blvd., Suite 900  
Chicago, IL 60604-2815

Thomas J. Moss  
202 Beachwalk  
Michigan City, IN 46360-1782

Thomas Moss Land Development Co  
202 Beachwalk  
Michigan City, IN 46360-1782

VW Credit  
P.O. Box 5215  
Carol Stream, IL 60197-5215

Woodruff and Sons, Inc.  
2125 East US 12  
P.O. Box 450  
Michigan City, IN 46361-0450



Woodruff & Sons, Inc.  
P.O. Box 10127  
Bradenton, FL 34282-0127