

1 ANDREW A. MOHER. SBN: 257605  
2 **LAW OFFICES OF ANDREW A. MOHER**  
3 10505 Sorrento Valley Rd, Suite 430  
4 San Diego, CA 92121  
5 Telephone: 619-269-6204  
6 Facsimile: 619-923-3303  
7 Attorney for Debtor Michele Ann Mayer

8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**  
11

12 In Re:  
13 Michele Ann Mayer

14 Case No. 16-07171-LA11

15 CHAPTER 11

16 **MOTION FOR ORDER**  
17 **AUTHORIZING SHORT SALE OF**  
18 **REAL PROPERTY UNDER 11 U.S.C.**  
19 **§363 and F.R.B.P. 6004**

20 **[29706 Road 162, Visalia, CA 93292]**

21 Hearing Date: TBD  
22 Hearing Time: TBD  
23 Judge: Hon. Louise D. Adler  
24 Dept: 2

25 TO THE HONORABLE LOUISE D. ADLER, UNITED STATES BANKRUPTCY  
26 JUDGE, OFFICE OF THE UNITED STATES TRUSTEE, AND ALL PARTIES IN  
27 INTEREST:

28 Debtor and Debtor-in-Possession Michele Ann Mayer, by and through counsel  
undersigned, hereby respectfully files this Motion for Authority to “Short Sell” her Real Property  
 (“The Motion”) located at 29706 Road 162, Visalia, CA 93292 (“The Subject Property”) and in  
 support of The Motion alleges the following:

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- 1) The Debtor filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code on November 25, 2016.
- 2) No trustee has been appointed in this case. The Debtor is in control of her estate as Debtor-in-Possession.
- 3) Debtor is the owner of her principal residence in Lakeside, California, and sixteen (16) properties in Tulare County, California. (“The Rental Properties”) Debtor has sold three of The Rental Properties for profit and is holding the proceeds in a blocked account for the benefit of creditors in her Plan.
- 4) Debtor has negotiated or is in the process of negotiating “short sales” on eight of the Rental Properties (“The Short Sale Properties”). The Short Sale Properties are overencumbered by liens and thus have no value to the estate. Furthermore, these properties are a drain on estate resources insofar as they are not receiving rental income but accrue expenses to maintain.
- 5) Debtor wishes to “short sell” the Real Property located at 29706 Road 162, Visalia, CA 93292 (“The Subject Property”). A true and correct copy of the Legal Description of the Real Property is attached hereto as Exhibit “A.” The Debtor seeks authorization from the Court to close the short sale only upon agreement from all secured lenders. The Debtor does not seek through this Motion to adversely affect any creditor without their consent.
- 6) Debtor has employed her real estate broker Cindy Coray and Modern Broker (“Broker”) for purposes of selling the Subject Property. The Debtor has applied for approval of such employment with the Court and has obtained an order authorizing the same (see doc #77) and extending Broker’s employment through March 5, 2018 (doc #134).

- 1           7) The fair market value of The Subject Property is \$205,000.00. The Subject Property  
2           is a 2 bedroom, 1 bathroom, 1184 sq. ft. single-family home with pole barn and fully  
3           fenced pastures. The Subject Property is in extreme disrepair. The kitchen has  
4           appliances but none of them are working, wood stove is in poor condition, the tile  
5           floor has broken tiles, and the carpet through the house is ruined. The Broker  
6           undertook extensive marketing efforts to list and sell the Subject Property by listing it  
7           in the Tulare County MLS, and picked up by Zillow, Realtor.com, Homes.com, and  
8           Broker believes the sale price is a reasonable price reflective of the fair market value  
9           of the Subject Property. Debtor's Broker believes the offer is fair and reasonable and  
10          in the best interest of the Debtor and her estate. (See Declaration of Cindy Coray)  
11  
12          8) The Subject Property is encumbered by two deeds of trust. The first deed of trust in  
13          favor of BSI Financial Services ("BSI") as a first position lien in the approximate  
14          amount of \$186,946.53 (see Exhibit "C", copy of Short Sale Approvals). The second  
15          deed of trust in favor of IRBC-NCI2 Park Tree Investments, LLC ("IRBC") as a  
16          second position lien in the approximate amount of \$48,141.89 (see Exhibit "D", copy  
17          of Proof of Claim #20). The total amount of encumbrances on the Subject Property  
18          are approximately \$235,088.42.  
19  
20          9) The Debtor has entered into an agreement with her lenders to "short sell" the Subject  
21          Property. The agreed gross sales price is \$205,000.00. A true and correct copy of the  
22          estimated settlement statement and its details are attached as Exhibit "B" and fully  
23          incorporated herein by reference.  
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25          10) The Debtor has reached an agreement with BSI to settle BSI's lien in full for  
26          \$186,946.53 and has reached an agreement with IRBC to settle IRBC's lien in full for  
27          \$4,400.00. The Debtor has received approval letters from BSI and IRBC confirming  
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1 this agreement. A true and correct copy of the Short Sale Approvals are attached as  
2 Exhibit "C" and fully incorporated herein by reference. The Short Sale Approval  
3 from BSI is subject to expiration on November 25, 2017 and the Short Sale Approval  
4 from IRBC is subject to expiration on November 30, 2017. However, Debtor's real  
5 estate broker is in active discussions with BSI and IRBC, and is confident the  
6 expiration dates can be extended to allow the short sale to close if necessary (see  
7 Declaration of Cindy Coray).

- 8
- 9 11) As set out in Exhibit "B," commissions of \$11,205.01 are to be paid to the brokers  
10 facilitating the sale, with other liabilities and costs of sale in the amount of  
11 \$10,834.05, totaling \$22,039.06.
- 12 12) There currently exists a blanket lien in favor of the Internal Revenue Service that  
13 encumbers all of Debtor's Real Property in Tulare County, including the Subject  
14 Property. ("The IRS Lien") The IRS Lien is in the process of being released, as  
15 Debtor has amended her 2006 and 2011 tax returns and the IRS has filed an amended  
16 claim (claim #1-3) establishing that the Debtor has no secured liability to the IRS, and  
17 has confirmed that they have requested the lien to be released.
- 18
- 19 13) The normal timeline for the lien release is 30 days from the amending of the claim.
- 20 14) Debtor will receive no proceeds or compensation in any form from the proposed short  
21 sale, which would be approximately November 16, 2017. Debtor's Counsel has  
22 discussed the matter with IRS counsel and the parties have agreed to work together to  
23 attempt to allow closure of the Short Sales as soon as possible.
- 24
- 25 15) The estimated closing date for the short sale on the Subject Property is November 3,  
26 2017. However, it is anticipated that the parties will request a short extension  
27 following the filing of this Motion.
- 28

1 16) The sale will have no negative impact on unsecured creditors or the estate, but will  
2 serve to increase cash flow and reduce financial obligations of the Debtor, leading to  
3 a net benefit for the estate. Debtor agrees to provide the Office of the United States  
4 Trustee a copy of the escrow closing statement within 14 days of the close of escrow  
5 as a condition to any approval of this motion.  
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8 **LEGAL ARGUMENT**

9 11 U.S.C. §363, in conjunction with F.R.B.P. 6004, allows a debtor, upon motion and  
10 opportunity for a hearing, to sell property of the estate other than in the ordinary course of  
11 business. The proposed sale is a “short sale,” and thus the Debtor will not receive any funds from  
12 the sale and is short selling the property to reduce liability and increase cash flow.

13 The purchaser of the Subject Property is purchasing said property in good faith. A good  
14 faith purchaser, as defined in §363(m) of the Bankruptcy Code, is one who purchases for “value”  
15 and where there is no fraud or collusion in the bidding process. *See In re Filtercorp, Inc.*, 163  
16 F.3d 570 (9<sup>th</sup> Cir. 1998). A good faith buyer has been further described as “one who buys ‘in  
17 good faith’ and ‘for value’” *See Ewell v. Diebert (In re Ewell)*, 958 F.2d 276,281 (9<sup>th</sup> Cir. 1992).  
18 A lack of good faith is typically shown by “fraud, collusion between the purchaser and other  
19 bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.” *See*  
20 *Community Thrift & Loan v. Suchy (In re Suchy)*, 786 F.2d 900, 902 (9<sup>th</sup> Cir. 1985)  
21

22 Here, the buyer is purchasing the property in cash for their own use or investment. The  
23 buyer is neither an insider nor affiliate of the Debtor, and there is no prior relationship between  
24 the buyer and the Debtor. There is no known fraud or collusion with respect to the sale. The sale  
25 agreement was negotiated at arms length and constitutes a good faith purchase in accordance  
26 with the Bankruptcy Code. The Debtor believes that the proposed sale is in the best interest of  
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1 the estate (see Declaration of Michele Mayer). The Debtor, and her realtor, also believe that the  
2 Subject Property has been adequately exposed to the market and that the sale price is the  
3 maximum price the Subject Property could be expected to sell for under the current conditions.  
4 Furthermore, in order to close the short sale, all parties including Debtor's creditors must agree  
5 to the sale price as a good faith sale. As such, Debtor submits that the sale constitutes a good  
6 faith purchase in accordance with the Bankruptcy Code.  
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9 **THE DEBTOR REQUESTS AUTHORITY TO CLOSE IMMEDIATELY UPON**

10 **APPROVAL OF THE SALE**

11 Federal Rule of Bankruptcy Procedure Rule 6004(h) states: "an order authorizing the use,  
12 sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after  
13 the entry of the order, unless the court orders otherwise." (emphasis added). The 1999  
14 Amendment by the Committee Notes on Rules (GAP Report) clarifies that "The court may, in its  
15 discretion, order that Rule 6004(g) [now 6004(h)] is not applicable so that the property may be  
16 used, sold, or leased immediately in accordance with the order entered by the court." The Debtor  
17 anticipates closing escrow imminently after the hearing on this Motion, if the Motion is  
18 approved, for a number of reasons including ensuring that the buyer does not back out of the  
19 proposed sale. For these reasons, the Debtor requests that the Court order and authorize that the  
20 short sale may be effectuated immediately upon entry of its order.  
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25 WHEREFORE, Debtor and Debtor-in-Possession Michele Ann Mayer prays for an order:

- 26 1) Authorizing the short sale of the Debtor's Real Property located at 29706 Road 162,  
27 Visalia, CA 93292, upon consent from all secured claimholders;  
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- 2) Authorizing the payment of commissions, taxes, and fees related to the sale in the amount of \$22,039.06;
- 3) Authorizing the Debtor to close the sale immediately upon approval by the court; and,
- 4) For any such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED:

LAW OFFICES OF ANDREW A. MOHER

Dated: October 26, 2017

By:           /s/ Andrew A. Moher            
/s/ Andrew A. Moher, Attorney for Debtor

Dated: October 26, 2017

  
Michele Ann Mayer, Debtor

1 ANDREW A. MOHER. SBN: 257605  
2 **LAW OFFICES OF ANDREW A. MOHER**  
3 10505 Sorrento Valley Rd, Suite 430  
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6 Facsimile: 619-923-3303  
7 Attorney for Debtor Michele Ann Mayer

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11 **UNITED STATES BANKRUPTCY COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**  
13

14 In Re:  
15 Michele Ann Mayer

16 Case No. 16-07171-LA11  
17 CHAPTER 11

18  
19 **DECLARATION OF MICHELE  
20 MAYER IN SUPPORT OF MOTION  
21 FOR AUTHORITY TO SHORT SELL  
22 REAL PROPERTY UNDER 11 U.S.C.  
23 §363 and F.R.B.P. 6004**

24 **[29706 Road 162, Visalia, CA 93292]**

25 Judge: Hon. Louise D. Adler  
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I, Michele Mayer, hereby declare:

1. I have personal knowledge of the facts contained in this declaration, except as to any matters alleged upon information and belief and as to those matters I believe them to be true. If called as a witness, I could and would testify thereto.
2. I am the owner of the property located at 29706 Road 162, Visalia, CA 93292 “Subject Property” in this motion. I disclosed the Subject Property on my bankruptcy schedules and all other relevant documents.
3. I have entered into an agreement to short sell the Subject Property. My broker and I have negotiated the agreement with Debtor’s lenders who have agreed to the sale



1 price. The agreed sale price is \$205,000.00. A true and correct copy of the estimated  
2 settlement statement is attached as Exhibit "B."

- 3 4. I believe that the agreed sales price is an accurate reflection of the fair market value  
4 of the home. The Subject Property is a 2 bedroom, 1 bathroom, 1184 sq. ft. single-  
5 family home with pole barn and fully fenced pastures. The Subject Property is in  
6 extreme disrepair. The kitchen has appliances but none of them are working, wood  
7 stove is in poor condition, the tile floor has broken tiles, and the carpet through the  
8 house is ruined. My Broker and I undertook extensive marketing efforts to list and  
9 sell the Subject Property by listing it in the Tulare County MLS, and picked up by  
10 Zillow, Realtor.com, Homes.com, and I believe the sale price is a reasonable price  
11 reflective of the fair market value. The proposed buyer is a third party with no  
12 connection to myself or any interested party.
- 13 5. The Subject Property is encumbered by the liens and encumbrances as set forth in the  
14 estimated settlement statement attached as Exhibit "B." I have reviewed the  
15 information on the encumbrances in the Motion and to the best of my knowledge  
16 those amounts are a complete and correct accounting of the parties and amounts owed  
17 regarding the Subject Property. There is currently a tax lien encumbering the property  
18 that is in the process of being released, and will either be released or resolved with the  
19 IRS prior to the closing of the short sale.
- 20 6. As set forth in the settlement statement, commissions of \$11,205.01 are to be paid to  
21 the brokers facilitating the sale, with other liabilities and costs of sale in the amount  
22 of \$10,834.05, totaling \$22,039.06.
- 23 7. I will receive no funds from the closing of this short sale. However, I believe it is the  
24 best interest of all parties to close this short sale promptly as I am not receiving rental  
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income and am having to pay for maintenance/upkeep on the property. The closing of this short sale will reduce expenses and increase my cash flow.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 25 day of October 2017, at Lakeside, California.



Michele Ann Mayer, Debtor

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DECLARATION

1 ANDREW A. MOHER. SBN: 257605  
2 **LAW OFFICES OF ANDREW A. MOHER**  
3 10505 Sorrento Valley Rd, Suite 430  
4 San Diego, CA 92121  
5 Telephone: 619-269-6204  
6 Facsimile: 619-923-3303  
7 Attorney for Debtor Michele Ann Mayer

8  
9 **UNITED STATES BANKRUPTCY COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**  
11

12 In Re:  
13 Michele Ann Mayer

14 Case No. 16-07171-LA11  
15 CHAPTER 11

16 **DECLARATION OF CINDY CORAY**  
17 **IN SUPPORT OF MOTION FOR**  
18 **AUTHORITY TO SHORT SELL REAL**  
19 **PROPERTY UNDER 11 U.S.C. §363**  
20 **and F.R.B.P. 6004**

21 **[29706 Road 162, Visalia, CA 93292]**

22 Judge: Hon. Louise D. Adler  
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25 I, Cindy Coray, hereby declare:

- 26 1. I have personal knowledge of the facts contained in this declaration, except as to any  
27 matters alleged upon information and belief and as to those matters I believe them to  
28 be true. If called as a witness, I could and would testify thereto.
- 29 2. I am the realtor for the Debtor regarding the property located at 29706 Road 162,  
30 Visalia, CA 93292 "Subject Property" in this motion.
- 31 3. The Debtor, through my brokerage, has entered into an agreement to short sell the  
32 Subject Property. I have negotiated the agreement with Debtor's lenders who have  
33 agreed to the sale price. The agreed sale price is \$205,000.00.

1 4. I believe that the agreed sales price is an accurate reflection of the fair market value  
2 of the home. The Subject Property is a 2 bedroom, 1 bathroom, 1184 sq. ft. single-  
3 family home with pole barn and fully fenced pastures. The Subject Property is in  
4 extreme disrepair. The kitchen has appliances but none of them are working, wood  
5 stove is in poor condition, the tile floor has broken tiles, and the carpet through the  
6 house is ruined. I undertook extensive marketing efforts to list and sell the Subject  
7 Property by listing it in the Tulare County MLS, and picked up by Zillow,  
8 Realtor.com, Homes.com, and believe the sale price is a reasonable price reflective of  
9 the fair market value. The Subject Property was initially listed at \$159,000.00 but  
10 after more discussion, Ms. Mayer felt it was worth more so we increased the price to  
11 \$189,000.00. I received an offer for \$200,000.00 and we accepted. This price would  
12 pay off the first lienholder, BSI, but not the second lienholder, IRBC, and BSI did not  
13 want to give IRBC anything. IRBC agreed to take \$4,400.00 and we gave an  
14 addendum to the buyer increasing the sales price to \$205,000.00. The buyer agreed  
15 and both of the lenders approved the short sale. The proposed buyer is a third party  
16 with no connection to the seller or any interested party.

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19 5. The Subject Property is encumbered by the liens and encumbrances as set forth in the  
20 estimated settlement statement attached as Exhibit "B." I have reviewed the  
21 information on the encumbrances in the Motion and to the best of my knowledge  
22 those amounts are a complete and correct accounting of the parties and amounts owed  
23 regarding the Subject Property.

24  
25 6. A true and correct copy of the approvals for the short sale from the senior lender BSI  
26 and the junior lender IRBC are attached hereto as Exhibit "C." The approval from  
27 BSI will expire on November 25, 2017 and the approval from IRBC will expire on  
28 November 30, 2017 but I am in active discussions with both BSI and IRBC, and am

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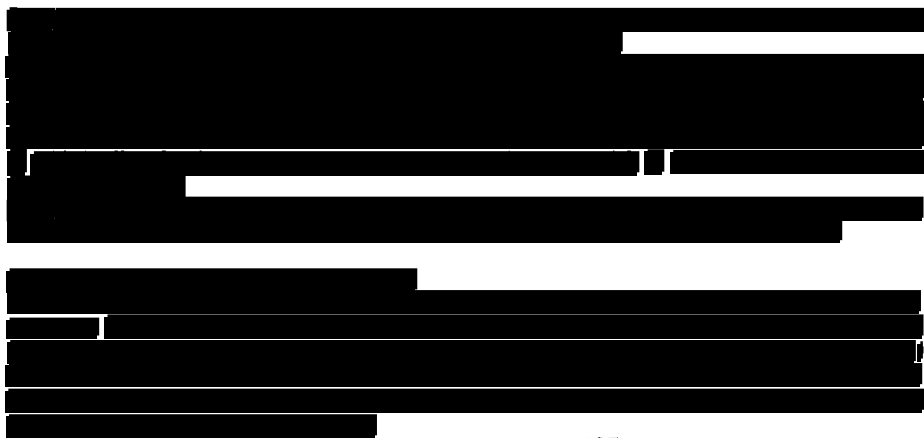
confident the expiration date will be extended to allow the short sale to close if necessary. There is currently a tax lien encumbering the property that is in the process of being released, and will either be released or resolved with the IRS prior to the closing of the short sale.

- 7. As set forth in the settlement statement, commissions of \$11,205.01 are to be paid to the brokers facilitating the sale, with other liabilities and costs of sale in the amount of \$10,834.05, totaling \$22,039.06. The Debtor will receive no funds from this sale as it is a negotiated short sale.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. Executed this 25th day of October 2017, at Visalia, California.

  
Cindy Coray

# **EXHIBIT A**



COUNTY of TULARE

[Type of Recording Jurisdiction] Parcel No. 1 of Parcel Map No. 1507, in the County of Tulare, State of California, as per Map Recorded in Book 16, Page 8 of Parcel Maps.

Parcel No. 2: A non-exclusive easement for ingress and egress over and across that portion of Parcel No. 2 of Parcel Map 1507, in the County Tulare, State of California, as per Map Recorded in Book 16, Page 8 of Parcel Maps, which is shown as a 26 Foot wide access easement.

Parcel ID Number. 103-080-077 which currently has the address of 29706 ROAD 162 VISALIA VISALIA, California 93292



# **EXHIBIT B**



American Land Title Association	Estimated	ALTA Settlement Statement - Combined Adopted 05-01-2015
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File Number:	01180-268388	<b>Stewart Title of California, Inc</b>
Print Date & Time:	10/5/2017 1:48 PM	<b>3710 West Mineral King Avenue</b>
Escrow Officer:	Debi Lane	<b>Visalia, CA 93291</b>
Settlement Location:	3710 West Mineral King Avenue Visalia, CA 93291	

Property Address: 29706 Road 162 Visalia, California 93292	
Buyer:	██████████-000 ██████████ CA
Seller:	Michele Mayer, CA
Lender:	Kings Mortgage Services, Inc - 3700 W Mineral King Ave, Visalia, CA 93277
Settlement Date:	11/03/2017
Disbursement Date:	11/03/2017
Additional dates per state requirements:	11/03/2017

Seller		Description	Borrower/Buyer	
Debit	Credit		Debit	Credit
		<b>Financial</b>		
	\$205,000.00	Sales Price of Property	\$205,000.00	
		Deposit		\$1,000.00
		Loan Amount		\$190,000.00
\$186,856.78		estimated short sale proceeds to Short sale lender		
		<b>Prorations/Adjustments</b>		
	\$289.86	County Taxes 11/3/2017 to 1/1/2018	\$289.86	
		Other w/Carryover		
		<b>Loan Charges to Kings Mortgage Services, Inc</b>		
		Appraisal Fee to Kings Mortgage Services, Inc	\$500.00	
		Appraisal Field Review Fee to Kings Mortgage Services, Inc	\$105.00	
		Credit Report Fee to Kings Mortgage Services, Inc	\$100.00	
		Flood Certification to Kings Mortgage Services, Inc	\$7.00	
		Loan Origination Fee to Kings Mortgage Services, Inc (1%)	\$1,900.00	
		Prepaid Interest	\$332.00	
		Processing Fee to Kings Mortgage Services, Inc	\$375.00	
		Underwriting Fee to Kings Mortgage Services, Inc	\$700.00	
		Wire Transfer Fee to Kings Mortgage Services, Inc	\$125.00	
		<b>Impounds</b>		
		Homeowner's Insurance \$50.00 per month for 2 mo.	\$100.00	
		Property Taxes \$208.33 per month for 6 mo.	\$1,249.98	

		<b>Title Charges &amp; Escrow/Settlement Charges</b>		
		Title - Lender's Policy \$190,000.00 Premium - \$400.00 to Stewart Title of California, Inc	\$400.00	
\$840.00		Title - Owner's Policy (optional) \$205,000.00 Premium - \$840.00 to Stewart Title of California, Inc		
		Notary Fee to Signing agent	\$150.00	
\$40.00		Title - Delivery Fee to Stewart Title of California, Inc	\$20.00	
\$50.00		Title - Document Preparation Fee to Stewart Title of California, Inc	\$50.00	
		Title - E-Doc Fee to Stewart Title of California, Inc	\$50.00	
		Title - Endorsement Fee to Stewart Title of California, Inc	\$250.00	
		Title - Loan Servicing Fee to Stewart Title of California, Inc	\$275.00	
\$660.00		Title - Settlement Fee to Stewart Title of California, Inc	\$410.00	
\$34.00		Title - Wire Fee to Stewart Title of California, Inc		
		<b>Commission</b>		
\$5,567.51		Real Estate Commission Buyer's Broker \$5,567.51 to Golden Corral Realty		
\$5,637.50		Real Estate Commission Seller's Broker \$5,637.50 to Modern Broker, Inc.		
		<b>Government Recording and Transfer Charges</b>		
		Recording Fees Deed: \$40.00 Mortgage: \$117.00 to Stewart Title of California, Inc	\$157.00	
\$225.50		Tax Stamp for County Deed to Stewart Title of California, Inc		
		<b>Payoff(s)</b>		
\$4,400.00		Estimated short sale proceeds Second Mortgage Loan to <<Payoff Lender>> Principal Balance \$4,400.00		
		<b>Miscellaneous</b>		
		Reinspection Fee to Kings Mortgage Services, Inc	\$150.00	
\$899.57		first inst 2017/18 taxes to Tulare County Auditor Controller Treasurer - Tax Collector		
\$79.00		Natural Hazard Disclosure Report to Estimate		
		Homeowner's Insurance Premium (12 mo.) to Insurance Provider	\$600.00	
<b>Seller</b>			<b>Borrower/Buyer</b>	
<b>Debit</b>	<b>Credit</b>		<b>Debit</b>	<b>Credit</b>
\$205,289.86	\$205,289.86	<b>Subtotals</b>	\$213,295.84	\$191,000.00
		Due From Borrower		\$22,295.84
	\$0.00	Due From Seller		
\$205,289.86	\$205,289.86	<b>Totals</b>	\$213,295.84	\$213,295.84

**Title Insurance – Simultaneous Rate Premiums**


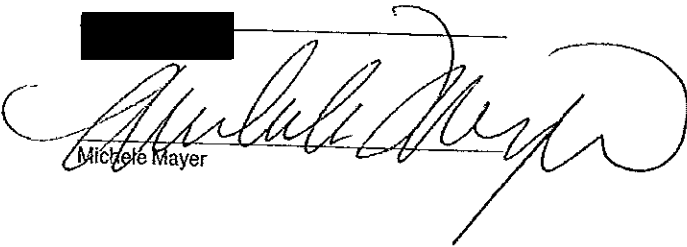
The Owner's and Lender's title insurance premiums set out above represent the actual rates filed with the California Department of Insurance. The Owner's and Lender's title insurance premiums shown on the Closing Disclosure were calculated and disclosed in the manner required by Federal regulation as required by the Consumer Financial Protection Bureau (CFPB). Despite the difference in the breakdown of premiums disclosed, the total combined premiums as required to be disclosed by the CFPB equals the total combined premiums calculated above using the current rules and rates of this State.


**SUBSTITUTE FORM 1099 SELLER STATEMENT:** The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. **SELLER INSTRUCTIONS:** If this real estate was our principal residence, file form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of form 4797, Form 6252 and/or Schedule D (Form 1040). This transaction does not need to be reported on Form 1099-S if you sign a certification containing assurances that any capital gain from this transaction will be exempt from tax under new IRS Code Section 121. You are required by law to provide the Settlement Agent with your correct taxpayer identification number. If you do not provide the Settlement Agent with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.

**Acknowledgement**

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Stewart Title of California, Inc to cause the funds to be disbursed in accordance with this statement.

I have carefully reviewed the Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of Settlement Statement. The Settlement Agent does not warrant or represent the accuracy of information provided by any party, including information concerning POC items and information supplied by the lender in this transaction appearing on this Settlement Statement pertaining to "Comparison of Loan Estimate, Closing Disclosure and Settlement Statement Charges" and "Loan Terms", and the parties hold harmless the Settlement Agent as to any inaccuracies in such matters. The parties have read the above sentences, recognize that the recitations herein are material, agree to same, and recognize Title Company is relying on the same.

  
  
Michele Mayer



29706

# **EXHIBIT C**



314 S Franklin St / Second Floor  
PO Box 517  
Titusville, PA 16354  
Toll Free 800-327-7861  
Fax 814-217-1366  
www.bsifinancial.com

September 25, 2017

MICHELE MAYER  
8662 WINTERGARDENS B  
LAKESIDE CA 92040

Re: Conditional Approval of Short Sale  
Borrower(s): MICHELE MAYER ("Borrower" or "Seller")  
Mortgage Loan #: [REDACTED] 769  
Property Address: 29706 ROAD 162  
VISALIA CA 93292

Dear MICHELE MAYER:

BSI Financial Services ("BSI") has received and reviewed the purchase and short sale contract of the above-referenced real property secured by the mortgage loan referenced above which is serviced by BSI.

This letter is confirmation that the short sale of this property is conditionally approved by BSI, **subject to** the conditions listed below being satisfied within the timeframes provided. If any of the conditions below are not timely satisfied, the short sale is not deemed approved and BSI will not authorize the discharge of the lien. Please follow all instructions to prevent any delays and further interest accruals.

1. Closing is to occur no later than 11/25/2017 or this approval is void. BSI must approve in writing any extensions or modifications to these terms. If BSI approves the extension, Borrower ("Seller") will be responsible for non-refundable per diem through the new date(s) of closing, extension fees and foreclosure attorneys' fees and costs, if any.
2. The sale price is no less than **\$205,000.00**.
3. Realtor commissions cannot exceed **\$11,205.01**.
4. Seller's closing costs cannot exceed **\$2,448.46**.
5. Amount to other Liens no more than **\$0.00**. This must be reflected on the final HUD-1 Settlement Statement ("HUD-1").
6. Amount Allowed to Seller(s) is **\$0.00**.

**Licensed as Servis One, Inc. dba BSI Financial Services.**

BSI Financial Services NMLS #38078. Customer Care Hours: Mon. - Fri. 8:00 am to 11:00 pm (ET) and Sat. 8:00 am to 12:00 pm (ET). If you have filed a bankruptcy petition and there is an "automatic stay" in effect in your bankruptcy case or you have received a discharge of your personal liability for the obligation identified in this letter, we may not and do not intend to pursue collection of that obligation from you personally. If either of these circumstances apply, this notice is not and should not be construed to be a demand for payment from you personally. Unless the Bankruptcy Court has ordered otherwise, please also note that despite any such bankruptcy filing, whatever rights we hold in the property that secures the obligation remain unimpaired.



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7. Net sales proceeds can be no less than **\$186,946.53**. The net proceeds must be in the form of wire funds, certified funds, or a cashier's check and made payable to BSI Financial Services. This figure represents the discharge of the first mortgage. Net proceeds are to be received by express mail the next business day, along with a signed copy of the HUD-1.
8. A copy of the final HUD-1 must be sent to BSI for approval at least forty-eight (48) hours before closing to the following email address: [KENYASMITH@BSIFINANCIAL.COM](mailto:KENYASMITH@BSIFINANCIAL.COM) and [LMDBSI@bsifinancial.com](mailto:LMDBSI@bsifinancial.com). In the event that the final HUD-1 is not approved or there is a significant change in any of the terms from the proposed HUD-1 and the final HUD-1, and/or if the funds remitted do not equal the approved HUD-1, this approval is void.
9. **BSI must receive confirmation that the funds have been deposited in escrow at least forty-eight (48) hours before closing. Confirmation of the deposit is expressly required in order for the short sale to be approved by BSI. (Only Applicable for Properties located in CA)**
10. Any funds in excess of the net sales proceeds, are the exclusive property of BSI and shall be made payable to BSI Financial Services. This approval is conditioned upon the Borrower (Seller) waiving their rights to any escrowed funds or refunds from prepaid expenses and also agree that any trailing proceeds from hazard insurance claims will be sent to and retained by BSI as additional recovery towards the outstanding balance of the loan. If BSI receives/retains proceeds in excess of the amount that, combined with the net proceeds, would have satisfied the loan in full, such surplus funds will be returned to the Borrower (Seller).
11. Immediately after the closing:

a. Send all funds to:

By Overnight Mail	By Wire Transfer
<p>Sent to BSI, by overnight mail, a copy of the HUD-1 Settlement Statement, Net Proceeds Check, Assignment of Escrow Disclosure Statement, and the release of liens, if any, to:</p> <p style="text-align: center;"><b>BSI Financial Services</b>  <b>314 S. Franklin St., 2<sup>nd</sup> floor</b>  <b>PO Box 517</b>  <b>Titusville, PA 16354</b></p> <p>The short sale package MUST be delivered to BSI the next business day. Failure to do so could result in the funds being returned and the short sale being cancelled.</p>	<p>Beneficiary: BSI Payment in Process Clearing Acct                      Texas Capital Bank                      2000 McKinney Ave, Suite 700                      Dallas, TX 75201                      ABA: [REDACTED] 79                      Account Number: [REDACTED] 0455</p> <p>Final Credit To: <b>payments</b> / Cashiering                      Reference Information: MICHELE MAYER,                      [REDACTED] 769</p>

b. Send BSI a scanned copy of the final HUD-1, short sale approval letter, and a copy of the check or wire confirmation to [KENYASMITH@BSIFINANCIAL.COM](mailto:KENYASMITH@BSIFINANCIAL.COM) and

Licensed as Servis One, Inc. dba BSI Financial Services.

BSI Financial Services NMLS #38078. Customer Care Hours: Mon. - Fri. 8:00 am to 11:00 pm (ET) and Sat. 8:00 am to 12:00 pm (ET). If you have filed a bankruptcy petition and there is an "automatic stay" in effect in your bankruptcy case or you have received a discharge of your personal liability for the obligation identified in this letter, we may not and do not intend to pursue collection of that obligation from you personally. If either of these circumstances apply, this notice is not and should not be construed to be a demand for payment from you personally. Unless the Bankruptcy Court has ordered otherwise, please also note that despite any such bankruptcy filing, whatever rights we hold in the property that secures the obligation remain unimpaired.



314 S Franklin St/ Second Floor  
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Titusville, PA 16354  
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www.bsifinancial.com

[LMDBSI@bsifinancial.com](mailto:LMDBSI@bsifinancial.com).

- 12. If a Bankruptcy is filed that terminates, delays, postpones and/or precludes the short sale transaction from closing on or before the date stated in Paragraph 1, this approval is void.
- 13. If the property was acquired by fraud, BSI reserves the right to pursue any and all remedies available for its damages.
- 14. If it is determined that the Borrower (Seller) and/or Buyer perpetuated or participated in the fraud, in any manner whatsoever, this approval is void and the Note and Security instrument remain in full force and effect.

Upon satisfaction of all conditions of this approval and after receiving the net proceeds, BSI will execute the release of lien or reconveyance in compliance with state required timelines. *Following sentence should be included depending on if deficiency waiver granted or not.* Provided that the closing and funds meet the requirements outlined herein, BSI will not pursue its right to deficiency, if any. If a foreclosure action is pending, BSI will dismiss the foreclosure action and record the appropriate documents.

**Notwithstanding conditional approval of this short payoff, BSI reserves the right to withdraw approval at any time and demand full payoff prior to funding.**

There may be possible tax consequences if any portion of the outstanding debt is "forgiven". Borrowers should consult a tax professional for assistance in determining the extent, if any, of the liability.

Should you have any questions, or require additional information, please contact us toll-free at 1-888-738-5873, Monday through Friday 8:00 a.m. - 11:00 p.m. (ET) and Saturday 8:00 a.m. - 12:00 p.m. (ET).

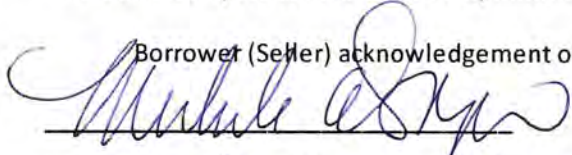
Sincerely,

KENYA SMITH  
Loss Mitigation Department

BSI Financial Services  
NMLS # 38078; # 1195811

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Borrower (Seller) acknowledgement on this 27 of October, 2017

  
\_\_\_\_\_

Print Name: MICHELLE MAYER      Print Name: \_\_\_\_\_

Licensed as Servis One, Inc. dba BSI Financial Services.  
BSI Financial Services NMLS #38078. Customer Care Hours: Mon. - Fri. 8:00 am to 11:00 pm (ET) and Sat. 8:00 am to 12:00 pm (ET).  
If you have filed a bankruptcy petition and there is an "automatic stay" in effect in your bankruptcy case or you have received a discharge of your personal liability for the obligation identified in this letter, we may not and do not intend to pursue collection of that obligation from you personally. If either of these circumstances apply, this notice is not and should not be construed to be a demand for payment from you personally. Unless the Bankruptcy Court has ordered otherwise, please also note that despite any such bankruptcy filing, whatever rights we hold in the property that secures the obligation remain unimpaired.



Park Tree Investments, LLC  
425 Divisadero St, Ste 207  
San Francisco, CA 94117  
Phone: (866) 290-8795

Account Number: [REDACTED] 828  
Investor: IRBC, LLC  
Property Address: 29706 RD 162  
Borrower: Michelle Mayer

Short Sale Agreement

IRBC, LLC agrees to short sale proceeds of \$4,400.00, "Settlement Amount", due on or before November 30, 2017

Upon receipt of the Settlement Amount as set forth in the IRBC, LLC will issue a release of lien and the note associated with this Loan will be considered satisfied for less than the legal balance due. IRBC, LLC will not pursue a deficiency judgment against the borrower or any guarantor for the amount due under the Note upon the completion of this short payoff transaction and payment of the entire Settlement Amount.

The Settlement Amount will first be applied to Loan Charges, then Interest Due, and then to the Principal Balance.

FCI wiring instructions attached.

AGREED AND ACCEPTED

Date: 10-23-17

Date: \_\_\_\_\_

IRBC, LLC

Approved By:

Date: 10-23-2017

Important Notice to Mortgagors Involved in a Bankruptcy proceeding: If you are a debtor involved in a bankruptcy proceeding, this letter has been sent to you merely for informational purposes and may be disregarded as an attempt to collect the debt (unless your mortgage is subject to an in rem order). If the automatic stay is in effect, we will not act to collect the debt owed until the stay has been lifted or the case has been discharged, please be assured that we are not attempting, and will not attempt, to collect this debt as a personal obligation, except in those circumstances when we may have the right to do so under applicable bankruptcy law. Otherwise, we will seek recovery of the debt from the property securing this debt.

PLEASE BE ADVISED THAT PARK TREE INVESTMENTS IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY AND ALL INFORMATION PROVIDED BY YOU WILL BE USED FOR THAT PURPOSE



# **EXHIBIT D**

**Fill in this information to identify the case:**

Debtor 1 Michelle Ann Mayer

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: Southern District of California

Case number 16-07171-LA11

Official Form 410

**Proof of Claim**

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

1. **Who is the current creditor?** IRBC-NCI2  
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor \_\_\_\_\_

2. **Has this claim been acquired from someone else?**  No  
 Yes. From whom? \_\_\_\_\_

3. <b>Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
	<u>Park Tree Investments</u> Name <u>425 Divisadero St., Suite 207</u> Number Street <u>San Francisco CA 94117</u> City State ZIP Code  Contact phone _____  Contact email _____	<u>FCI Lender Services, Inc.</u> Name <u>PO Box 27370</u> Number Street <u>Anaheim Hills CA 92809</u> City State ZIP Code  Contact phone _____  Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		

4. **Does this claim amend one already filed?**  No  
 Yes. Claim number on court claims registry (if known) \_\_\_\_\_ Filed on \_\_\_\_\_  
MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**  No  
 Yes. Who made the earlier filing? \_\_\_\_\_

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6. Do you have any number you use to identify the debtor?  No  Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: 0 8 2 8

7. How much is the claim? \$ 48,141.89. Does this amount include interest or other charges?  No  Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  
Note and Deed of Trust

9. Is all or part of the claim secured?  No  Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: 29706 Road 162, Visalia, CA 93291

**Basis for perfection:** Deed of Trust  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ 48,141.89

**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)

**Amount necessary to cure any default as of the date of the petition:** \$ 3,954.83

**Annual Interest Rate** (when case was filed) 7.7500 %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  Yes. Amount necessary to cure any default as of the date of the petition. \$ \_\_\_\_\_

11. Is this claim subject to a right of setoff?  No  Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

Amount entitled to priority

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ \_\_\_\_\_

Up to \$2,775\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ \_\_\_\_\_

Wages, salaries, or commissions (up to \$12,475\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ \_\_\_\_\_

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ \_\_\_\_\_

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ \_\_\_\_\_

Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies. \$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/27/2017  
MM / DD / YYYY

/s/ Michelle Ghidotti-Gonsalves  
 Signature

Print the name of the person who is completing and signing this claim:

Name Michelle Ghidotti-Gonsalves  
First name Middle name Last name

Title \_\_\_\_\_

Company Law Offices of Michelle Ghidotti  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 5120 E. La Palma Avenue, Suite 206  
Number Street

Anaheim Hills CA 92807  
City State ZIP Code

Contact phone (949)354-2601 Email mghidotti@ghidottilaw.com

