

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(b) and F.R.B.P. 6004**

20 **[15865 Paradise Ave, Ivanhoe, CA**  
21 **93235]**

22 Judge: Hon. Louise D. Adler  
23

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

27 Debtor and Debtor-in-Possession Michele Ann Mayer, by and through counsel  
28 undersigned, hereby respectfully files this Motion for Authority to “Short Sell” her Real Property  
29 (“The Motion”) located at 15865 Paradise Ave, Ivanhoe, CA 93235 (“The Subject Property”)  
30 and in support of The Motion alleges the following:

- 31 1) The Debtor filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code  
32 on November 25, 2016.

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- 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 (“The 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”). Authorization to close four of the eight short sales has already been granted by the Court. 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 15865 Paradise Ave, Ivanhoe, CA 93235 (“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 \$92,500.00. The Subject Property is  
2           a 4 bedroom, 2 bathroom, 1202 sq. ft. single-family home. The Subject Property is in  
3           fairly good shape with tile floors throughout. The Broker undertook extensive  
4           marketing efforts to list and sell the Subject Property by listing it in the Tulare  
5           County MLS, and picked up by Zillow, Realtor.com, Homes.com, and Broker  
6           believes the sale price is a reasonable price reflective of the fair market value of the  
7           Subject Property. Debtor's Broker believes the offer is fair and reasonable and in the  
8           best interest of the Debtor and her estate. (See Declaration of Cindy Coray)  
9  
10          8) The Subject Property is encumbered by one deed of trust, in favor of Bayview Loan  
11          Servicing, LLC ("Bayview") as a first position lien in the approximate amount of  
12          \$137,579.00 (see Exhibit "C", copy of Short Sale Approval) The total amount of  
13          encumbrances on the Subject Property are approximately \$137,579.00.  
14  
15          9) The Debtor has entered into an agreement with her lender to "short sell" the Subject  
16          Property. The agreed gross sales price is \$92,500.00. A true and correct copy of the  
17          estimated settlement statement and its details are attached as Exhibit "B" and fully  
18          incorporated herein by reference.  
19  
20          10) The Debtor has reached an agreement with Bayview to settle Bayview's lien in full  
21          for \$85,306.05. The Debtor has received an approval letter from Bayview confirming  
22          this agreement. A true and correct copy of the Short Sale Approval is attached as  
23          Exhibit "C" and fully incorporated herein by reference. The Short Sale Approval is  
24          subject to expiration on January 14, 2018. However, Debtor's real estate broker is in  
25          active discussions with Bayview and is confident the expiration date can be extended  
26          to allow the short sale to close if additional time is needed (see Declaration of Cindy  
27          Coray).  
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- 1 11) As set out in Exhibit “B,” commissions of up to \$5,550.00 are to be paid to the  
2 brokers facilitating the sale, with other liabilities and costs of sale in the amount of  
3 \$1,985.88, totaling \$7,535.88.
- 4 12) Debtor will receive no proceeds or compensation in any form from the proposed short  
5 sale, which would be approximately January 12, 2018.
- 6 13) The estimated closing date for the short sale on the Subject Property is January 12,  
7 2018. However, it is anticipated that the parties will request a short extension  
8 following the filing of this Motion.
- 9 14) The sale will have no negative impact on unsecured creditors or the estate, but will  
10 serve to increase cash flow and reduce financial obligations of the Debtor, leading to  
11 a net benefit for the estate. Debtor requests authority to close the short sale only upon  
12 consent from all secured lienholders on the terms of the current approval or any future  
13 approval from the secured lienholders agreed to by all parties.
- 14 15) This Motion to Sell is not seeking to sell the Subject Property free and clear of liens  
15 pursuant to 11 U.S.C. section 363(f), but solely pursuant to section 363(b) and subject  
16 to secured lienholders consent of any such sale.
- 17 16) In the event that the current Short Sale approval expires by its terms, the Debtor must  
18 seek and obtain from the secured lienholders, including Bayview, either an extension  
19 of the Short Sale Approval, or new short sale approval, in accordance with all of the  
20 secured lienholder’s short sale procedures and requirements. Further, any such short  
21 sale may only be consummated in strict accordance with the terms and provisions of  
22 any such extension of the Short Sale Approval, or subsequently issued short sale  
23 authorization.
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1 17) The Debtor understands that secured lienholders maintain the right to rescind and/or  
2 cancel the Short Sale Approval or any extensions thereof, and that secured lienholders  
3 are not obligated or required to provide any such approvals or extensions. The Debtor  
4 has no reason to believe that such approvals or extensions will be denied in this case  
5 but includes this language for the protection of secured lienholders.

6 18) The sale will have no negative impact on unsecured creditors or the estate, but will  
7 serve to increase cash flow and reduce financial obligations of the Debtor, leading to  
8 a net benefit for the estate.

9 19) Debtor agrees to provide the Office of the United States Trustee a copy of the escrow  
10 closing statement within 14 days of the close of escrow as a condition to any approval  
11 of this motion.  
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14 **LEGAL ARGUMENT**

15 11 U.S.C. §363, in conjunction with F.R.B.P. 6004, allows a debtor, upon motion and  
16 opportunity for a hearing, to sell property of the estate other than in the ordinary course of  
17 business. The proposed sale is a “short sale,” and thus the Debtor will not receive any funds from  
18 the sale and is short selling the property to reduce liability and increase cash flow.

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

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

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

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WHEREFORE, Debtor and Debtor-in-Possession Michele Ann Mayer prays for an order:

- 1) Authorizing the short sale of the Debtor’s Real Property located at 15865 Paradise Ave, Ivanhoe, CA 93235, only upon consent from all secured claimholders and in strict accordance with the approval letter issues by Bayview or any future extension or further approval thereof;
- 2) Authorizing the payment of commissions, taxes, and fees related to the sale in the amount of \$7,535.88;
- 3) That the 14 day stay of FRBP 6004(h) be waived and that Debtor be authorized 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: December 5, 2017

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

Dated: December 5, 2017

By:           /s/ Michele Ann Mayer            
Michele Ann Mayer, Debtor

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

21 **[15865 Paradise Ave, Ivanhoe, CA**  
22 **93235]**

23 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 15865 Paradise Ave, Ivanhoe, CA 93235 “Subject Property” in this motion. I disclosed the Subject Property on my bankruptcy schedules and all other relevant documents.



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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 price. The agreed sale price is \$92,500.00. A true and correct copy of the estimated settlement statement is attached as Exhibit “B.”
4. I believe that the agreed sales price is an accurate reflection of the fair market value of the home. The Subject Property is a 4 bedroom, 2 bathroom, 1202 sq. ft. single-family home. The Subject Property is in fairly good shape with tile floors throughout. My Broker and I undertook extensive marketing efforts to list and sell the Subject Property by listing it in the Tulare County MLS, and picked up by Zillow, Realtor.com, Homes.com, and I believe the sale price is a reasonable price reflective of the fair market value. The proposed buyer is a third party with no connection to myself or any interested party.
5. The Subject Property is encumbered by the liens and encumbrances as set forth in the estimated settlement statement attached as Exhibit “B.” I have reviewed the information on the encumbrances in the Motion and to the best of my knowledge those amounts are a complete and correct accounting of the parties and amounts owed regarding the Subject Property.
6. As set forth in the settlement statement, commissions of up to \$5,550.00 are to be paid to the brokers facilitating the sale, with other liabilities and costs of sale in the amount of \$1,985.88, totaling \$7,535.88.
7. I will receive no funds from the closing of this short sale. However, I believe it is the best interest of all parties to close this short sale promptly as I am not receiving rental 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.

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct to the best of my knowledge. Executed this 4th day of December  
3 2017, at Lakeside, California.

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/s/ Michele Ann Mayer  
Michele Ann Mayer, Debtor

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7 Attorney for Debtor Michele Ann Mayer

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11 **UNITED STATES BANKRUPTCY COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**  
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14 In Re:  
15 Michele Ann Mayer

16 Case No. 16-07171-LA11

17 CHAPTER 11

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

23 **[15865 Paradise Ave, Ivanhoe, CA**  
24 **93235]**

25 Judge: Hon. Louise D. Adler  
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I, Cindy Coray, 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 realtor for the Debtor regarding the property located at 15865 Paradise Ave, Ivanhoe, CA 93235 "Subject Property" in this motion.
3. The Debtor, through my brokerage, has entered into an agreement to short sell the Subject Property. I have negotiated the agreement with Debtor's lenders who have agreed to the sale price. The agreed sale price is \$92,500.00.

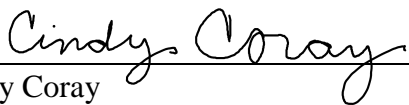
DECLARATION

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4. I believe that the agreed sales price is an accurate reflection of the fair market value of the home. The Subject Property has 4 bedrooms, 2 bathrooms, 1202 sq. ft. single-family home. The Subject Property is in fairly good shape with tile floors throughout. I undertook extensive marketing efforts to list and sell the Subject Property by listing it in the Tulare County MLS, and picked up by Zillow, Realtor.com, Homes.com, and believe the sale price is a reasonable price reflective of the fair market value. The Subject Property was initially listed at \$99,000.00, but attracted no buyers at that price. I got an immediate offer for \$90,000.00 and accepted it. After their review, Bayview wanted \$92,500.00 and the buyer agreed. The proposed buyer is a third party with no connection to the seller or any interested party.
5. The Subject Property is encumbered by the liens and encumbrances as set forth in the estimated settlement statement attached as Exhibit "B." I have reviewed the information on the encumbrances in the Motion and to the best of my knowledge those amounts are a complete and correct accounting of the parties and amounts owed regarding the Subject Property.
6. A true and correct copy of the approval for the short sale from the senior lender Bayview is attached hereto as Exhibit "C." The approval will expire on January 14, 2018 but I am in active discussions with Bayview and am confident the expiration date can be extended to allow the short sale to close if additional time is needed.
7. As set forth in the settlement statement, commissions of up to \$5,550.00 are to be paid to the brokers facilitating the sale, with other liabilities and costs of sale in the amount of \$1,985.88, totaling \$7,535.88. The Debtor will receive no funds from this sale as it is a negotiated short sale.

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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 4th day of December, 2017, at Visalia, California.

  
Cindy Coray

# **EXHIBIT A**

Escrow No. [REDACTED]  
Locate No. [REDACTED]  
Title No. [REDACTED]

**EXHIBIT "A"**

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

Lot 25 of Tract 659, Olive Village Estates, Phase II, in the County of Tulare, State of California, as per map recorded in Book 35, page 72 of Maps of Tulare County Records.

EXCEPTING THEREFROM a one-half interest in and to all mineral rights lying 500 feet below the surface of said land, as excepted in the deed (dated October 23, 1986) recorded November 7, 1986 as Document No. 64178 in Book 4494, page 640 of Official Records.

# **EXHIBIT B**



American Land Title Association Estimated ALTA Settlement Statement - Combined  
Adopted 05-01-2015

File Number: [REDACTED] 18 **Stewart Title of California, Inc**  
 Print Date & Time: 12/4/2017 11:53 AM **3710 West Mineral King Avenue**  
 Escrow Officer: Debi Lane **Visalia, CA 93291**  
 Settlement Location: 3710 West Mineral  
 King Avenue  
 Visalia, CA 93291

Property Address: 15865 Paradise Avenue Ivanhoe, California 93235  
  
 107-162-044  
 Buyer: [REDACTED], CA  
 Seller: Michele Mayer, CA  
 Lender: Cash Transaction, CA  
  
 Settlement Date: 1/12/2018  
 Disbursement Date: 1/12/2018  
 Additional dates per state requirements: 1/12/2018

Seller		Description	Borrower/Buyer	
Debit	Credit		Debit	Credit
		<b>Financial</b>		
	\$92,500.00	Sales Price of Property	\$92,500.00	
		<b>Prorations/Adjustments</b>		
\$33.07		County Taxes 1/1/2018 to 1/12/2018		\$33.07
		Other w/Carryover		
		<b>Title Charges &amp; Escrow/Settlement Charges</b>		
\$534.00		Title - Owner's Policy (optional) \$92,500.00 Premium - \$534.00 to Stewart Title of California, Inc		
\$40.00		Title - Delivery Fee to Stewart Title of California, Inc		
\$25.00		Title - Document Preparation Fee to Stewart Title of California, Inc	\$25.00	
\$300.00		Title - Settlement Fee to Stewart Title of California, Inc	\$300.00	
\$17.00		Title - Wire Fee to Stewart Title of California, Inc		
		<b>Commission</b>		
\$2,664.41		Real Estate Commission Buyer's Broker \$2,664.41 to Keller Williams Realty, Inc		
\$2,664.41		Real Estate Commission Seller's Broker \$2,664.41 to Modern Broker, Inc.		
		<b>Government Recording and Transfer Charges</b>		
\$140.00		Recording Fee for Release to Stewart Title of California, Inc		
		Recording Fees Deed: \$50.00 Mortgage: to Stewart Title of California, Inc	\$50.00	
\$101.75		Tax Stamp for County Deed to Stewart Title of California, Inc		
		<b>Payoff(s)</b>		

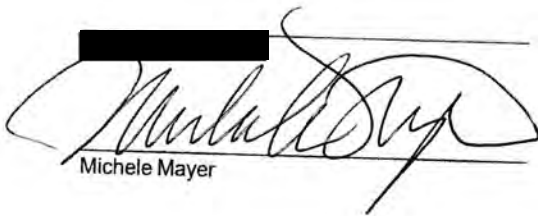
\$85,306.05		ESTIMATED SHORT SALE PROCEEDS to Bayview Principal Balance \$85,306.05		
		<b>Miscellaneous</b>		
\$595.31		first installment 2017/18 taxes and late fee to Tulare County Auditor Controller Treasurer - Tax Collector		
\$79.00		Natural Hazard Disclosure Report to Property ID		
<b>Seller</b>			<b>Borrower/Buyer</b>	
<b>Debit</b>	<b>Credit</b>		<b>Debit</b>	<b>Credit</b>
<b>\$92,500.00</b>	<b>\$92,500.00</b>	<b>Subtotals</b>	<b>\$92,875.00</b>	<b>\$33.07</b>
		Due From Borrower		\$92,841.93
	\$0.00	Due From Seller		
<b>\$92,500.00</b>	<b>\$92,500.00</b>	<b>Totals</b>	<b>\$92,875.00</b>	<b>\$92,875.00</b>

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

15865

# **EXHIBIT C**



Bayview Loan Servicing, LLC  
4425 Ponce de Leon Blvd. 5th Floor  
Coral Gables, FL 33146

November 30, 2017

MICHELE MAYER  
12540 CASTLE CT DR  
LAKESIDE, CA 92040-4258



Loan Number: [REDACTED] 91

Property Address: 15865 PARADISE AVENUE  
IVANHOE, CA 93235

**IMPORTANT: Your request for consideration for a short sale has been approved.  
Here's what to expect next:**

Dear Customer:

I am pleased to inform you that Bayview Loan Servicing, LLC ("Bayview") has approved you for a Discounted Payoff on your property located at 15865 PARADISE AVENUE, IVANHOE, CA 93235 (the "Property") in the amount of **\$85,306.05** which is good through **01/14/2018 end of business day, the scheduled Closing Date.** This Discounted Payoff is null and void if the funds received by Bayview as of the Closing Date are less than the amount approved in this agreement.

Please be advised that this Discounted Payoff approval is on a one time basis and additional requests for approval may not be considered.

The terms of the Discounted Payoff offer are as follows:

• Settlement Date:	01/14/2018
• Sales Price:	\$92,500.00
• Borrower or Seller Credits:	\$0.00
• Borrower Contributions:	\$0.00
• Realtor Commissions:	\$5,550.00
• Taxes & Closing Costs:	\$1,643.95
• Third Party Fees:	\$0.00
• Subordinate Liens:	\$0.00
• Relocation Assistance:	\$0.00
• Net Proceeds to Bayview Loan Servicing:	<u>\$85,306.05</u>

In addition, notice of Closing is required within 48 hours of the scheduled Closing Date, to ensure the items listed below have been received and reviewed for approval:

- Final Settlement Statement with buyer and seller closing costs
- A signed 4506T completed by all borrowers must be received prior to closing.
- Active Bk11 - Trustee, court approval or automatic stay relief order must be received prior to closing.

### Refunds and Insurance Proceeds

Any refunds, taxes or any proceeds from any insurance that become due before the Discounted Payoff funds are paid to Bayview must be paid to Bayview in order to satisfy the loan.

Borrower warrants that he/she will not interfere with the investigation of any such insurance claim. Borrower also warrants that any such borrower payment, insurance check, or tax refund referenced above that he/she receives, shall be immediately forwarded to Bayview. Bayview will also retain any funds that may currently be held in suspense and escrow accounts.

### Attorney Fees

In the event that any party hereto brings suit for the collection of any damages resulting from, or the injunction of any action constituting, a breach of any terms or provisions of this Agreement or the Loan Documents, then the prevailing party shall be entitled to recover all reasonable court costs and attorneys' fees, at all levels.

Borrower agrees not to make any claim to any attorney fees and costs against Lender in the event there is a pending foreclosure case/action which is voluntarily dismissed by Lender as a result of this modification agreement or similar settlement reached between the parties. Borrower acknowledges that a voluntary dismissal by Lender under such circumstances shall not make the Borrower the prevailing party in such foreclosure action/case for the purposes of this section.

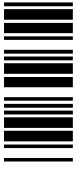
### Foreclosure Sale/Law Day

If a foreclosure sale has been scheduled, funds must be received 48 hours prior to the foreclosure sale or by the required date indicated above, whichever is sooner. Upon receipt by Bayview of the Discounted Payoff Amount, Bayview will dismiss or cancel any pending legal action. No legal action will be halted until funds are received on or before the required date.

Based on the terms of this letter, the unpaid principal balance, and estimated costs and fees associated with the mortgage loan, **the deficiency balance, is estimated to be \$52,273.01 if the Short Sale is completed by the date of closing referenced above. Bayview Loan Servicing LLC retains the right to seek your payment of the remaining deficiency in the future.** Please understand that Bayview Loan Servicing LLC will report amounts of debt that have been cancelled to the IRS, if required to do so under IRS regulations. As a mortgage servicer, Bayview Loan Servicing LLC cannot provide tax advice. Please consult a tax or legal advisor for assistance regarding any tax or legal implications associated with a Short Sale and the cancellation of debt that may result.

Nothing in this letter shall be construed to prejudice, waive, modify or alter any of Bayview's rights or remedies in law or in equity in collecting the entire amount due and to come due on the Loan or be construed to waive any defense of Bayview.

**This Discount Payoff offer is valid only if borrowers sign a copy of this letter at the bottom of the next page under "Acknowledged and Accepted" and return it to my attention on or before 01/14/2018 end of business day. Please assure that funds are received by Bayview by the required date indicated in this letter. In addition, please send the executed closing documents, including the signed Settlement Statement by all parties to me.**



**PAYMENT INFORMATION.** Use one of the following methods to send remittance to Bayview Loan Servicing:

**Overnight Mail:**

Bayview Loan Servicing, LLC  
4425 Ponce de Leon Blvd., 5th Floor  
Coral Gables, FL 33146

**Wire Instructions\*:**

JP Morgan Chase  
One Chase Manhattan Plaza  
New York, NY 10005  
**ABA #:** [REDACTED]-021  
**Credit Account:** Bayview Loan Servicing, LLC  
**Account No.:** [REDACTED] 847

*\*Fees may be imposed by money transmitter.*

Please include the following information on all remittance:

Borrower: MICHELE MAYER  
Bayview Loan Number: [REDACTED] 91  
Property Address: 15865 PARADISE AVENUE, IVANHOE, CA 93235



**You Have Deed-in-Lieu Options**

**Deed-in-Lieu.** If, during any time prior to the expiration date of this approval you are unable or no longer interested in completing the short sale, you may be able to convey ownership of your property to Bayview through a deed-in-lieu and satisfy the amount due on your first mortgage. While this action, called a Deed-in-Lieu of Foreclosure, will not allow you to keep your property, it will prevent you from going through a foreclosure sale and it will release you from all further responsibility for repaying the remaining mortgage debt. Additionally, provided you have complied with all other requirements, you or your tenant may be able to receive funds to help with moving expenses. Should you have any questions regarding the Deed-in-Lieu of Foreclosure process, please contact us.

In order successfully complete a Deed-in-Lieu of Foreclosure with Bayview the following additional steps must be completed:

- **All Occupants Must Vacate the Property and Leave the Property in Broom Clean Condition.** All occupants must provide clear and marketable title with a general warranty deed or local equivalent; vacate the property; and deliver to Bayview all the keys and controls, (e.g., garage door openers), by the expiration of this lien release approval letter ("Vacate Date"). Upon the Vacate Date, you must leave the Property in broom clean condition; all personal belongings must be removed and the Property left free of any and all interior and exterior trash, debris or damage. In addition, the yard must be left in a clean and neat condition. Further, in accepting the Deed-in-Lieu of Foreclosure option, you hereby agree to release Bayview from any and all liability regarding the removal and disposal of any possessions or materials left in or at the Property after the Vacate Date. You may be required to sign standard pre-closing documents as well as attend a closing of the conveyance of your property where all borrowers on the mortgage must be present.
- **Subordinate Lien Releases.** Bayview has the option of providing additional funds to be paid to subordinate lien holders in exchange for a release of liens on the Property. If you have these types of liens, please gather any paperwork you have (such as your last statement), and send it to us promptly. Remember, clearing these subordinate liens and delivering clear and marketable title is your responsibility and Bayview takes no responsibility for ensuring that subordinate lien holders avoid seeking enforcement of personal liability against you. Therefore, we recommend that you take steps to satisfy yourself that the subordinate lien holders release you from any personal liability.

Sincerely,

*John Koscinski*

John Koscinski, Asset Manager  
Bayview Loan Servicing, LLC  
Phone Number: (855) 495-6213 Monday - Friday 9:00 a.m. - 6:00 p.m., ET  
Fax Number: (305) 265-2596  
E-mail: JohnKoscinski@bayviewloanservicing.com

Bayview Loan Servicing, LLC is a debt collector. This letter is an attempt to collect a debt and any information obtained will be used for that purpose. To the extent that your obligation has been discharged or is subject to an automatic stay of bankruptcy this notice is for compliance and informational purposes only and does not constitute a demand for payment or any attempt to collect such obligation. Bayview Loan Servicing, LLC., NMLS #2469.

The following mailing address must be used for all Error Notices & Information Requests: Bayview Loan Servicing, LLC, Customer Support, 4425 Ponce de Leon Boulevard, 5th Floor, Coral Gables, FL 33146.

ACKNOWLEDGED AND ACCEPTED:

By: *Michele Mayer* Date: 12/4/17  
MICHELE MAYER



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