

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE: §  
MOHAMMED TAHIR RAJPOOT § CASE NO. 18-31217  
DEBTOR § CHAPTER 11

**DEBTOR'S MOTION FOR AN ORDER AUTHORIZING THE SALE  
OF PERSONAL PROPERTY OUTSIDE THE ORDINARY COURSE  
OF THE DEBTOR'S BUSINESS**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Mohammed Tahir Rajpoot, the Debtor herein (the "*Debtor*"), and files this Motion for an Order Authorizing the Sale of Personal Property Outside the Ordinary Course of Debtor's Business Pursuant to 11 U.S.C. § 363 (the "*Motion*"), and in support thereof, would respectfully show unto the Court as follows:

### **I. Chapter 11 Petition**

1. The Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code on March 11, 2018 (the "*Petition Date*"). From and since the *Petition Date*, the Debtor has maintained possession of his property, and has continued to remain in control of his ongoing business affairs as a Debtor-in-possession pursuant to the provisions of 11 U.S.C. §§ 1107 and 1108. The Court's Order of April 24, 2018 [Docket No. 24] designated the Debtor as a small business debtor.

### **II. Jurisdiction and Venue**

2. This Court has jurisdiction over the proceedings herein pursuant to 11 U.S.C. § 105 and 28 U.S.C. §§ 151, 157, and 1334. Venue is appropriate herein by virtue of 28 U.S.C. § 1408.

### **III. Notice**

3. Notice of this Motion is being given to the United States Trustee and all creditors and parties-in-interest in accordance with the provisions of 11 U.S.C. § 363(b)(1), Fed. R. Bankr. P. 6004(e), 2002(a)(2), (c)(1), as well as Bankruptcy Local Rule 9013.

### **IV. Grounds**

4. On the *Petition Date*, Debtor's bankruptcy estate was created (the "*Bankruptcy Estate*").

5. In its Amended Schedules, Debtor listed its 50% ownership interest in Bammel Joint Venture, LLC as property of the Bankruptcy Estate [Docket No. 23, p. 4]. Bammel Joint Venture, LLC owns and operates a convenience store and gas station located at 10330 Bammel North Houston Road, Houston, Harris County, Texas 77086 (the "*Bammel Convenience Store*").

6. By this Motion, Debtor seeks an Order of this Court, in accordance with § 363(b) of the Code authorizing Debtor, as co-owner and duly authorized agent of Bammel Joint Venture, LLC (“*Seller*”), to sell to Masti Venture, LLC as purchaser (the “*Purchaser*”) the Bammel Convenience Store business with inventory and goodwill (the “*Property*”) as more particularly described in and pursuant to that certain Sale and Purchase Agreement (the “*Purchase Agreement*”) between Seller and Purchaser. The sale shall be made “as is, where is” with no representations or warranties of any kind, except as set out in the Purchase Agreement. A copy of the Purchase Agreement is attached hereto as *Exhibit 1*.

7. In evaluating such a sale, a court must balance the need for flexibility with the concern of the affected creditors. *In re Terrace Gardens Park Partnership*, 96 B.R. 707, 715 (Bankr. W.D. Tex. 1989). The Court must also determine that creditor’s lien rights are adequately protected and that the offer price is the highest price obtainable under the circumstances in the particular case. *Id.*; *In re Beker Indus. Corp.*, 63 B.R. 474, 477-78 (Bankr. S.D.N.Y. 1986).

8. Debtor desires to sell the Property because Debtor has been burdened by the ongoing time and expense to operate the Property without sustaining levels of distribution to the Debtor. Debtor’s ongoing burden of time and expense to operate the Property without adequate compensation is an impediment to a successful reorganization of Debtor’s small business.

9. After extensive efforts to locate a purchaser for the Property, Debtor has received an offer of purchase from Masti Venture, LLC (“*Masti*”). The Masti offer is the best overall offer that has been received for the Property, and that offer formed the basis for the negotiation of the Purchase

Agreement with Purchaser, which was made subject to this Court's approval. The Purchase Agreement provides for a purchase price (the "Purchase Price") of a \$50,000 cash down payment plus inventory in the amount of \$83,246 valued as follows: fuel and cigarette items shall be valued at Seller's cost; and grocery items and beer shall be valued at 72% of their retail price. The Purchase Price shall be paid to Seller as follows: a \$50,000 cash down payment shall be paid to Seller at closing, less a broker's fee of \$14,500; Purchaser shall also execute and deliver a promissory note in the amount of \$83,246 with interest to accrue at 6 % per annum, which shall be payable to Seller in 18 monthly installments of \$4,847.56.

10. Debtor requests that the Court approve the Purchase Price and authorize Debtor, as co-owner and duly authorized agent of Seller, to sell the Property to Masti for the purchase price and on the terms set forth in the Purchase Agreement.

11. Debtor has negotiated in good faith for the sale of the Property to the Purchaser. Debtor believes that the Purchase Price is the best price currently obtainable for the Property in an arms-length transaction.

12. Debtor further submits that this sale of the Property is in the best interests of the Debtor's estate and its creditors-at-large. The facts of this case justify the proposed "out of the ordinary course" sale proposed by this Motion, since the sale of the Property will reduce the ongoing economic burden on Debtor and enable Debtor to more use his time more effectively toward a successful reorganization of Debtor's small business.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the Court (i) approve the Purchase Agreement; (ii) authorize Debtor as co-owner and duly authorized agent of Seller to sell the Property to the Purchaser upon and subject to the terms and conditions set forth in the Purchase Agreement; and (iii) grant Debtor such other and further relief as the Court deems just and proper.

Respectfully submitted this 7<sup>th</sup> day of November, 2018.

**FUQUA & ASSOCIATES, P.C..**

By: /s/ Richard L. Fuqua  
Richard L. Fuqua  
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Houston, Texas 77056  
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Facsimile: 713.960-1064  
Email: [rlfuqua@fuqualegal.com](mailto:rlfuqua@fuqualegal.com)

Attorneys for Debtor  
Mohammed Tahir Rajpoot

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served upon parties in interest via electronic means as listed on the ECF noticing system and/or by first class mail to the parties on the attached service list on November 7, 2108.

/s/ Richard L. Fuqua  
Richard L. Fuqua

Mohammed Tahir Rajpoot  
5426 Abington Creek Lane  
Sugar Lane, TX 77479

Richard L. Fuqua  
FUQUA & ASSOCIATES, PC  
5005 Riverway, Suite 250  
Houston, TX 77056

U.S. Trustee  
515 Rusk, Ste. 3516  
Houston, TX 77002

Securities & Exchange Comm.  
Bankruptcy Section  
175 W. Jackson Blvd #900  
Chicago, IL 60604

24 Seven Entrepreneurs LLC  
Attn Nadyrshah Dhanani  
11000 S. Wilcrest Dr. #130  
Houston, TX 77099

Airport Fortune, Inc.  
5426 Abington Creek Ln.  
Sugar Land, TX 77479

Akbar Virani  
48 Jaymar Drive  
Sugar Land, TX 77479

Allegiance Bank  
5410 Bellaire Blvd., Ste. B  
Bellaire, TX 77401

American First National Bank  
9999 Bellaire Blvd.  
Houston, TX 77036

BBVA Compass Bank  
PO Box 830696  
Birmingham, AL 35283

Blue Shutters Productions, Inc.  
c/o D. Myles Price  
117 Pacific St. #205  
Santa Monica, CA 09405

Cajun Global LLC dba Church's  
980 Hammond Dr., N.E., Ste. 100  
Atlanta, GA 30328-6161  
Attn: Office of General Counsel

Capital One Master Card  
PO Box 71083  
Charlotte, NC 28272

Capital One Quicksilver  
PO Box 71083  
Charlotte, NC 28272

Chase Freedom Visa  
PO Box 15298  
Wilmington, DE 19850

Chase Slate Visa  
PO Box 15298  
Wilmington, DE 19850

Compass BBVA  
PO Box 830696  
Birmingham, AL 35283

D. Brent Wells, Esq.  
Wells & Cuellar  
440 Louisiana, Ste. 718  
Houston, TX 77002

Discover Card  
PO Box 30943  
Salt Lake City, UT 84130

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Kyle R. Watson, Esq.  
Winstead PC  
24 Waterway Avenue, Ste. 500  
The Woodlands, TX 77380

New South Post Oak Fortune, LLC  
5426 Abington Creek Ln.  
Sugar Land, TX 77479

Nizari FCU  
11770 University Blvd.  
Sugar Land, TX 77478

Post Oak Fortune LLC  
Attn: Nadyrshah Dhanani  
11000 S. Wilcrest #130  
Houston, TX 77099

Sam's Club Master Card  
PO Box 965004  
Orlando, FL 32896

Sazz Fortune, Inc.  
5426 Abington Creek Ln.  
Sugar Land, TX 77479

Sazz Fortune, Inc.  
5426 Abington Creek Ln.  
Sugar Land, TX 77479

U.S. Bank Home Mortgage  
PO Box 21948  
Eagan, MN 55121

PARTIES REQUESTING NOTICE:

Blue Shutters Productions, Inc.  
c/o D. Brent Wells  
Wells & Cuellar, P.C.  
440 Louisiana, Ste. 718  
Houston, TX 77002

Tara L. Grundemeier  
Linebarger Goggan Blair & Sampson  
PO Box 3064  
Houston, TX 77253-3064

Stephen Statham  
Office of the U.S. Trustee  
515 Rusk, Ste. 3516  
Houston, TX 77002

Synchrony Bank  
c/o PRA Receivables Management LLC  
PO Box 41021  
Norfolk, VA 23541

20 Largest Unsecured Creditors

Nizari FCU  
11770 University Blvd.  
Sugar Land, TX 77478

American First National Bank  
9999 Bellaire Blvd.  
Houston, TX 77036

BBVA Compass Bank  
PO Box 830696  
Birmingham, AL 35283

Discover Card  
PO Box 30943  
Salt Lake City, UT 84130

Compass BBVA  
PO Box 830696  
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Sam's Club Master Card  
PO Box 965004  
Orlando, FL 32896

Chase Slate Visa  
PO Box 15298  
Wilmington, DE 19850

Chase Freedom Visa  
PO Box 15298  
Wilmington, DE 19850

Capital One Quicksilver  
PO Box 71083  
Charlotte, NC 28272

Capital One Master Card  
PO Box 71083  
Charlotte, NC 28272

Post Oak Fortune LLC  
Attn: Nadyrshah Dhanani  
11000 S. Wilcrest #130  
Houston, TX 77099

Cajun Global LLC dba Church's  
980 Hammond Dr., N.E., Ste. 100  
Atlanta, GA 30328-6161  
Attn: Office of General Counsel

Blue Shutters Productions, Inc.  
c/o D. Myles Price  
117 Pacific St. #205  
Santa Monica, CA 09405

24 Seven Entrepreneurs LLC  
Attn Nadyrshah Dhanani  
11000 S. Wilcrest Dr. #130  
Houston, TX 77099

## SALE AND PURCHASE AGREEMENT

THIS AGREEMENT is effective as of September 2, 2018 (Effective Date), by and between MASTI VENTURE, LLC, a Texas limited liability company (hereinafter referred to as "Purchaser") and Bammel Joint Venture, LLC, a Texas limited liability company (hereinafter referred to as "Seller").

### Recital

Purchaser desires to purchase the convenience store business with inventory and goodwill located at 10330 Bammel North Houston, Houston, Harris County, Texas 77086 (hereafter the "Business") all more particularly described herein on the terms and conditions hereinafter set forth.

### I. PURCHASE AND SALE

1.01 NOW, THEREFORE, Seller shall sell to Purchaser and Purchaser shall purchase from Seller, on the terms and conditions set forth in this Agreement:

- a. All inventory, contracts, contract rights, goodwill, customers, tradenames, customer lists, phone/fax numbers, all other intangible assets of Seller associated with Seller's Business.

### II. AMOUNT OF PURCHASE PRICE

2.01 The total purchase price to be paid by Purchaser to Seller for the goodwill and rights as set forth above and described in this Agreement shall be FIFTY THOUSAND AND 00/100 (\$50,000.00) DOLLARS plus the inventory valuation. The inventory valuation will be as follows: (a) fuel and cigarette items at cost; (b) grocery items and beer at seventy-two (72%) percent of retail price.

The Purchase Price shall be payable at closing as follows: Purchaser shall pay the sum of Fifty Thousand & No/100 (\$50,000.00) in cash at closing and shall execute and deliver to Seller a promissory note in the original principal amount of EIGHTY-THREE THOUSAND TWO HUNDRED FORTY-SIX & 00/100 (\$83,246.00) DOLLARS for the value of the inventory as provided above; such promissory note shall be payable in eighteen (18) monthly installments beginning on November 2, 2018 and shall bear interest at six (6%) percent per annum. The promissory note shall be personally guaranteed by IMRAN DHANANI and secured by a Security Agreement and financing statement on the assets of the Business as described above.

Ex. 1



### III. REPRESENTATIONS AND WARRANTIES OF SELLER

3.01 Seller represents and warrants to Purchaser as follows, which representations and warranties shall be deemed made by Seller to Purchaser at closing and shall survive such closing date:

- a. Seller is the sole owner of the assets described herein with full right to dispose of the same, and no other person or persons whatsoever have any claim, right, title, interest or lien in, to, or on said property and assets save and except current taxes not yet due.
- b. Seller owes no undisclosed obligations and has contracted no undisclosed liabilities which might affect the consummation of the purchase and sale described in this agreement, save and except current taxes not yet due.

### IV. CLOSING

3.02 The closing of this Agreement shall be deemed to have occurred on September 2, 2018. At the closing, Seller shall:

- a. Deliver to Purchaser possession of the real property and improvements.
- b. Execute all bills of sale, and other instruments deemed necessary or proper to transfer to Purchaser all of the assets being sold pursuant to this Agreement.
- c. Execute a Management Agreement as provided in 8.01 below.
- d. Execute an assignment of the current lease agreement for the premises. Lease to be personally guaranteed by the Purchaser's owner, Imran Dhanani.

At the closing, Purchaser shall:

- a. Pay the purchase price by paying the sum of Fifty Thousand & No/100 (\$50,000.00) Dollars in cash and by executing the Promissory Note, Security Agreement and Guaranty.
- b. Execute and deliver to seller the Management Agreement.
- c. Execute an assignment of the current lease agreement for the premises described above and cause Purchaser's owner, Imran Dhanani, to personally guarantee same.

## V. PRORATIONS

5.01 Utility charges and personal property taxes shall be prorated as of the closing date and shall be adjusted in cash at the closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation. All special taxes or assessments to the closing date shall be paid by Seller.

## VI. INDEMNIFICATION BY PURCHASER

6.01 The Purchaser hereby agrees to indemnify and hold harmless the Seller against and in respect to all damages, claims, liabilities, and lawsuits relating to the Property or Business, occurring or arising after closing, or arising out of or as a result of acts or omissions of Purchaser, its agents or employees. Such indemnity will include but not be limited to claims or lawsuits arising out of all debts and liabilities of Purchaser and environmental contamination and TCEQ violations. From and after Closing Date, Purchaser shall be responsible for the remediation of any and all contamination of the Property and the TCEQ violations occurring after the Closing Date.

## VII. ADDITIONAL TERMS

7.01 Purchaser agrees to apply for beer, wine and lottery permits and licenses and in the event Purchaser is unable to obtain such permits or licenses by closing, Purchaser and Seller shall enter into a Management Agreement providing Purchaser to sell Seller's beer and wine and cigarettes under Seller's licenses until Purchaser obtains its licenses.

7.02 Purchaser shall not assume any debts or obligations of Seller other than the ATM Agreement, and all similar contracts in existence at Closing.

7.03 Purchaser has reviewed Seller's books and records of Seller, inspected the property and has monitored the sales and is satisfied with all aspects of the business and property.

**7.04 Property Condition. "AS IS." THE CONSUMMATION OF THE PURCHASE AND SALE OF THE ASSETS AND BUSINESS PURSUANT TO THIS AGREEMENT SHALL BE DEEMED PURCHASER'S ACKNOWLEDGMENT THAT IT HAS HAD AN ADEQUATE OPPORTUNITY TO MAKE SUCH LEGAL, FACTUAL AND OTHER INSPECTIONS, INQUIRIES AND INVESTIGATIONS AS IT DEEMS NECESSARY, DESIRABLE OR APPROPRIATE WITH RESPECT TO THE ASSETS AND BUSINESS, AND PURCHASER AFFIRMS THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER SET FORTH IN THIS AGREEMENT OR IN ANY CLOSING DOCUMENT, PURCHASER (i) HAS INVESTIGATED AND INSPECTED THE ASSETS AND BUSINESS AND IS FAMILIAR**


AND SATISFIED WITH THE PHYSICAL CONDITION OF THE ASSETS AND BUSINESS, AND (ii) HAS MADE ITS OWN DETERMINATION AS TO (a) THE MERCHANTABILITY, QUANTITY, QUALITY AND CONDITION OF THE ASSETS AND BUSINESS, INCLUDING, WITHOUT LIMITATION, THE POSSIBLE PRESENCE OF HAZARDOUS MATERIAL, AS DEFINED HEREIN, AND (b) THE PROPERTY'S SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE. SUCH INSPECTIONS, INQUIRIES AND INVESTIGATIONS OF PURCHASER SHALL BE DEEMED TO INCLUDE, BUT SHALL NOT BE LIMITED TO, ANY LEASES AND CONTRACTS PERTAINING TO THE BUSINESS OR ASSETS WHICH WERE DISCLOSED TO PURCHASER PURSUANT TO THIS AGREEMENT, THE PHYSICAL COMPONENTS OF ALL PORTIONS OF THE ASSETS, THE PHYSICAL CONDITION OF THE REAL PROPERTY. PURCHASER ACKNOWLEDGES THAT EXCEPT FOR ANY EXPRESS WARRANTIES AND REPRESENTATIONS CONTAINED IN THIS AGREEMENT AND/OR IN ANY CLOSING DOCUMENT, PURCHASER IS NOT RELYING ON ANY WRITTEN, ORAL, IMPLIED OR OTHER REPRESENTATIONS, STATEMENTS OR WARRANTIES BY SELLER OR ANY AGENT OF SELLER OR ANY REAL ESTATE BROKER OR SALESMAN. ALL PREVIOUS WRITTEN, ORAL, IMPLIED OR OTHER STATEMENTS, REPRESENTATIONS, WARRANTIES OR AGREEMENTS, IF ANY, ARE MERGED IN THIS AGREEMENT.

PURCHASER HEREBY ACCEPTS THE ASSETS AND BUSINESS IN THEIR PRESENT CONDITION ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS.

7.06 All terms and conditions herein shall survive closing.

SELLER:

BAMMEL JOINT VENTURE, LLC  
a Texas Limited Liability Company

By:   
Name: Mohammed Tahir Rajpoot  
Title: Manager

PURCHASER:

MASTI VENTURE, LLC  
a Texas Limited Liability Company

By:   
Name: Imran Dhanani  
Title: Manager