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6 UNITED STATES BANKRUPTCY COURT  
7 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
8 SAN FERNANDO DIVISION  
9

10  
11 In re  
12 SHIRLEY FOOSE MCCLURE,  
13 Debtor

Bk. No. 1:13-bk-10386-GM

Chapter 11

**MOTION OF JOHN P. REITMAN,  
CHAPTER 11 TRUSTEE, FOR ENTRY OF  
AN ORDER AUTHORIZING SALE OF 145  
NORTH OTSEGO DRIVE, GAYLORD, MI  
49735 FREE AND CLEAR OF LIENS,  
CLAIMS AND INTERESTS;  
DECLARATION OF JOHN P. REITMAN  
IN SUPPORT THEREOF**

**Hearing Date and Time:**

Date: June 27, 2017

Time: 10:00 a.m.

Place: Courtroom 303

United States Bankruptcy Court  
21041 Burbank Boulevard  
Woodland Hills, CA 91367

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**TABLE OF AUTHORITIES**

**Cases**

*Citicorp Mortgage v. Brooks (In re Ex-Cel Concrete Co.)*,  
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*Community Thrift & Loan v. Suchy (In re Suchy)*,  
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*Heath v. Farmer (In re Heath)*,  
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*In re Haven Eldercare*,  
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*In re Ionosphere Clubs, Inc.*,  
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1 **TO THE HONORABLE GERALDINE MUND, UNITED STATES BANKRUPTCY**  
2 **JUDGE AND ALL INTERESTED PARTIES:**

3 John P. Reitman, as chapter 11 trustee (the “Trustee”) for the bankruptcy estate  
4 (“Estate”) of Shirley Foose McClure, debtor (the “Debtor”) in the captioned bankruptcy case  
5 under Chapter 11 of the United States Bankruptcy Code, as amended (the “Bankruptcy Code”),  
6 hereby submits this motion (“Motion”), pursuant to sections 363 and 105(a) of the Bankruptcy  
7 Code, for entry of an order of the Court authorizing the sale of the Estate’s residential real  
8 property located at 145 North Otsego Drive, Gaylord, Michigan 49735 (“Otsego Property”), free  
9 and clear of all liens, claims and interests, and represents as follows:  
10

11  
12 **I.**

13 **STATEMENT OF FACTS**

14 **A. Procedural History**

15 The Debtor commenced this Bankruptcy Case by filing her voluntary petition for relief  
16 under Chapter 11 of the Bankruptcy Code on December 21, 2012 (the “Petition Date”). The  
17 Trustee is informed that the Debtor’s Estate is comprised of her interest in multiple parcels of  
18 income producing real property in Southern California, San Francisco, Maui and Michigan and  
19 claims asserted in two lawsuits against attorneys who formerly represented her.

20 On July 12, 2016, the Court entered an order directing the Office of the United States  
21 Trustee to appoint a chapter 11 trustee (Docket No. 1090). On July 27, 2016, the United States  
22 Trustee appointed Mr. Reitman as the Chapter 11 Trustee (Docket No. 1105) and on the same  
23 date Mr. Reitman accepted that appointment (Docket No. 1106). On August 3, 2016, the Court  
24 entered its order approving the United States Trustee’s appointment of Mr. Reitman as the  
25 Trustee (Docket No. 1113).

26 **B. The Otsego Property**

27 The Estate owns three real properties in Gaylord Michigan: the Otsego Property, another  
28 residential property located at and 93 Invitational Drive, Gaylord, MI 49735 (“Invitational

1 Property”) and the lot adjacent thereto (“Lot 13” and, together with the Invitational Property and  
2 the Otsego Property, the “Michigan Properties”). By this Motion, the Trustee seeks an order  
3 authorizing the sale of the Otsego Property only. The Trustee has also found a purchaser for the  
4 Invitational Property, and will bring a separate motion seeking an order authorizing the sale of  
5 that property.

6 The Otsego Property is not encumbered by any secured debt.<sup>1</sup> On August 1, 2016,  
7 shortly before the appointment of the Trustee, the Debtor entered into a one year Residential  
8 Lease Agreement<sup>2</sup> pursuant to which the Otsego Property was leased to a tenant, Gail Collins,  
9 for \$1,200 per month. Nonetheless, the costs of repairing and maintaining the Otsego Property  
10 have totaled \$11,590.46 since the appointment of the Trustee, and the Otsego Property has not  
11 generated a positive cash flow for the Estate during the Trustee’s administration, prompting the  
12 Trustee to determine, in the exercise of his sound business judgment, that a sale of the Otsego  
13 Property is in the best interests of the Debtor’s Estate and all having an interest therein.

14 Apart from property insurance premiums in the aggregate amount of \$1,269.90, such  
15 maintenance and repair costs have included \$4,953.40 for repairs to the plumbing system,  
16 \$921.90 for repairs to the basement of the property which flooded in September, 2016, \$487.56  
17 to replace a broken clothes washing machine, and \$2,288.78 in delinquent property taxes that  
18 were not timely paid by the Debtor. Moreover, in February, 2017, in the dead of the Michigan  
19 winter, the furnace in the property failed, apparently because routine maintenance had not been  
20 performed by the Debtor, occasioning the expenditure of an additional \$1,014.00 in diagnostic  
21 work. The furnace has not been repaired. Ms. Collins has arranged, with the Trustee’s  
22 agreement, to terminate the lease and will shortly vacate the property. The defects in the furnace  
23 and the heating system have been disclosed to the purchaser of the property and the property is to  
24 be sold “as is.”

25  
26  
27 <sup>1</sup> There may be real property tax liens against the Otsego Property. Any such tax liens will be paid through the close of  
escrow.

28 <sup>2</sup> A copy of such Residential Lease Agreement is attached as Exhibit A to the Declaration of John Reitman (“Reitman  
Declaration), attached hereto.

1           **C.     Marketing and Proposed Sale of the Otsego Property.**

2           On January 1, 2017, the Trustee filed and served his application for an Order of the Court  
3 authorizing the employment of Berkshire Hathaway Michigan Real Estate (“Berkshire  
4 Hathaway”) as listing agent and broker for the marketing and sale of the Michigan Properties  
5 (Docket No. 1164) (“Application”). The Debtor objected to the Trustee’s Application (Docket  
6 No. 1168) (“Debtor’s Objection”). The Trustee timely filed and served his reply to the Debtor’s  
7 Objection (Docket No. 1169) and, following a hearing held on February 21, 2017, the Court  
8 entered its order overruling the Debtor’s Objection and granting the Trustee’s Application on  
9 February 28, 2017 (Docket No. 1172).

10           Berkshire Hathaway has been actively marketing the Otsego Property since that time, and  
11 has received offers from two prospective purchasers, which it forwarded to the Trustee. The  
12 Trustee, in the exercise of his sound business judgment, has agreed, subject to this Court’s  
13 approval, to sell the Otsego Property “as is” to Rectory Realty LLC (the “Purchaser”) for  
14 \$250,000.00. The Purchaser is aware and acknowledges that the furnace and heating system do  
15 not work properly. Moreover, the Debtor has asserted that her son, Jason McClure, claims  
16 ownership of certain personal property in the Otsego Property. Accordingly, the Purchaser has  
17 acknowledged that only fixtures, built in appliances and a clothes washing machine purchased by  
18 the Estate are included in the sale. The agreement between the Trustee and the Purchaser is  
19 memorialized in the documents attached as Exhibit B to the Reitman Declaration (collectively,  
20 the “Purchase Agreement”). As is set forth therein, the Otsego Property is being sold “as is,”  
21 with no contingencies or warranties. The sale of the Otsego Property to the Purchaser is subject  
22 to approval by the Court and to overbid, as set forth below.

23           The Purchaser has paid a deposit of \$25,000.00 which has been placed in escrow with  
24 Alpine Title & Escrow (“AT&E”), and has agreed to pay the remainder of the purchase price in  
25 cash upon the close of escrow.

1 II.

2 **RELIEF REQUESTED**

3 By this Motion, the Trustee seeks the following relief:

4 **A. Approval of Bidding Procedure**

5 The Trustee requests approval of the following bidding procedure:

6 (1) To qualify as an overbidder, a party interested in bidding must, no later than 4:00  
7 p.m. on June 21, 2017, (a) deliver to the Trustee's counsel a completed and signed copy of the  
8 overbid form (the "Overbid Form") attached as Exhibit 1 to the *Notice of Motion of John P.*  
9 *Reitman, Chapter 11 Trustee, for Entry of an Order Authorizing Sale of 145 North Otsego Drive,*  
10 *Gaylord, MI 49735 Free and Clear of Liens, Claims and Interests* (Docket No. 1191) filed  
11 concurrently herewith, making a binding offer for the Otsego Property of no less than \$260,000.00  
12 (the "Initial Overbid Amount"), (b) deliver to the Trustee a deposit in the amount of at least  
13 \$26,000.00, either in the form of a cashier's check payable to the Trustee or by wire transfer to  
14 AT&E, and (c) provide to the Trustee's counsel information sufficient to demonstrate to the  
15 reasonable satisfaction of the Trustee that the proposed over bidder has the financial ability to  
16 complete the sale on the terms specified in the Purchase Agreement and Overbid Form (collectively,  
17 the "Bid Package"). The Trustee will notify bidders whether they have qualified to bid at the auction  
18 (a "Qualified Bidder") within two business days after receipt by the Trustee of the Bid Package;

19 (2) All Qualified Bidders must appear, telephonically or in person, at the hearing on the  
20 Motion, at 10:00 a.m., on June 27, 2017, in Courtroom 303, United States Bankruptcy Court, 21041  
21 Burbank Boulevard, Woodland Hills, California 91367;

22 (3) At the hearing on the Motion, the Court shall designate the successful bidder for the  
23 Otsego Property (the "Successful Bidder"), which shall be (a) if no parties have qualified as  
24 Qualified Bidders, the Purchaser, (b) if only one party has qualified as a Qualified Bidder, and no  
25 further overbids are received at the hearing (including by the Purchaser), the Qualified Bidder, or  
26 if multiple parties have qualified as Qualified Bidders, the winning bidder at the auction process  
27 described in paragraphs (4) and (5);



1 (4) If multiple parties have qualified as Qualified Bidders prior to the hearing on the  
2 Motion, an auction will be conducted by the Court or by the Trustee at the hearing, or by the Trustee  
3 in a conference room in the courthouse identified in open court at the sale hearing, at which the  
4 opening bid shall be the Initial Overbid Amount and the opening bidder shall be the first party who  
5 qualified as a Qualified Bidder under paragraph (1), with each subsequent bid being at least \$1,000  
6 greater than the prior bid;

7 (5) The winning bidder at the auction shall be the party that submits the bid that the  
8 Trustee determines, in the reasonable exercise of his discretion and with the approval of the Court, to  
9 be the highest and best bid for the Otsego Property;

10 (6) At the hearing on the Motion, if the Trustee so requests, the Court may also designate  
11 a back-up bidder for the Otsego Property (the "Back-Up Bidder"), which shall be (a) if only one  
12 overbid is received, the Purchaser, and (b) if more than one overbid is received, the party who  
13 submits the next highest and best bid, as determined by the Trustee, after the winning bid submitted  
14 by the Successful Bidder;

15 (7) The closing date of the sale to the Successful Bidder shall be a date to which the  
16 Trustee and the Successful Bidder agree in writing, but in no event more than 21 days after entry of  
17 the order granting the Motion; and

18 (8) If the sale to the Successful Bidder does not close within 21 days after entry of the  
19 order granting the Motion, for any reason other than the fault of the Trustee, the Trustee may retain  
20 the entire deposit amount submitted by the Successful Bidder without recourse by such bidder.<sup>3</sup>

21 **B. Sale of the Otsego Property**

22 The Trustee requests that the Court authorize him to take all steps necessary or that he  
23 reasonably deems appropriate to complete the sale of the Otsego Property to the Successful  
24 Bidder or, if the Successful Bidder does not close within 21 days after the order approving such  
25 sale is entered by the Court and the Trustee elects to terminate the sale to the Successful Bidder,  
26 to the Back-Up Bidder.

27 \_\_\_\_\_  
28 <sup>3</sup> The Trustee reserves the right to alter the Bid Procedures by notifying Qualified Bidders at or before the auction that  
the Bid Procedures have been altered.



1 *Lahijani*), 325 B.R. 282, 288 (9th Cir. BAP 2005). Absent special circumstances, public  
2 auctions are generally preferred as a means of obtaining the highest possible price. *See, e.g.,*  
3 *Sheen v. Diamond (In re American Computer & Digital Components, Inc.)*, 2005 Bankr. LEXIS  
4 3360, at \*13 (9th Cir. BAP 2005) (“Frequently, the maximum value of estate property will be  
5 realized by competitive bidding.”). The bidding procedure proposed by the Trustee is designed  
6 to encourage competitive bidding while ensuring that all persons participating in the auction  
7 process have the financial wherewithal to close the sale in a timely fashion. The Trustee believes  
8 that this procedure will permit him to achieve the highest price for the Otsego Property without  
9 unduly delaying the sale, and therefore the procedure should be approved by the Court.

10 **B. The Trustee Should be Authorized To Sell the Otsego Property**

11 The Trustee should be authorized to sell the Otsego Property outside of the ordinary  
12 course of business, because the Otsego Property is an asset of the Estate that can be liquidated to  
13 generate funds for the payment of creditors, and because the costs of its maintenance and repair  
14 constitute a drain on the Estate. Under 11 U.S.C. § 363(b)(1), “[t]he trustee . . . may use, sell, or  
15 lease, other than in the ordinary course of business, property of the estate.” For the court to  
16 approve a sale of estate assets outside of the ordinary course of business, the trustee must provide  
17 an “articulated business justification” for the proposed sale. *See, e.g., In re ASARCO, LLC*, 650  
18 F.3d 593, 601 (5th Cir. 2011); *Walter v. Sunwest Bank (In re Walter)*, 83 B.R. 14, 19-20 (9th Cir.  
19 BAP 1988); *In re Ionosphere Clubs, Inc.*, 100 B.R. 670, 674-75 (Bankr. S.D.N.Y. 1989). In the  
20 present case, the business justification for the proposed sale of the Otsego Property is that it is an  
21 asset of the Estate that can be sold to generate funds for the payment of creditors and because the  
22 costs of maintenance and repair of the Otsego Property are such that, despite the absence of any  
23 secured debt, the Otsego Property has failed to generate positive cash flow for the Estate during  
24 the course of the Trustee’s administration, warranting its sale to preserve the assets of the Estate.

25 In an individual debtor’s bankruptcy case, it is up to the trustee to decide whether to sell  
26 estate property. This is true even where the property is the debtor’s residence and the debtor is  
27 entitled to claim an exemption, with the debtor’s interest being limited to receiving sale proceeds  
28 equal to the amount of that exemption. *See, e.g., Heath v. Farmer (In re Heath)*, 2007 Bankr.

1 LEXIS 4847, at \*8 (9th Cir. BAP Apr. 2, 2007) (“[The individual debtors] had no rights in the  
2 Property; the chapter 7 bankruptcy estate, represented by [the] trustee, was the owner of all rights  
3 in the Property; and [the trustee’s] efforts in liquidating the Property were necessary, indeed  
4 mandated, under the Bankruptcy Code.”); *In re Farthing*, 340 B.R. 376, 380 (Bankr. D. Ariz.  
5 2006) (“The house itself, as distinguished from the Debtors’ inchoate interest in a portion of its  
6 possible proceeds, remained property of the estate. Because the Trustee is now in a position to  
7 sell the home for an amount substantially in excess of all liens against it and the maximum  
8 homestead claim of Debtors, it is appropriate for the Trustee to do so and the Debtors’ objection  
9 to the sale is therefore denied.”).

10 Here, the Otsego Property is not the Debtor’s residence, and the Debtor has not (and  
11 could not) claim any homestead exemption with respect to it. Moreover, the Trustee is unaware  
12 of any liens encumbering the Otsego Property, with the result that proceeds of the sale will be  
13 available for the benefit of creditors through the sale process proposed by the Motion, and the  
14 Court should authorize the Trustee to proceed with the sale.

15 **C. The Sale Should be Free and Clear of All Liens, Claims and Interests**

16 The Trustee is unaware of any liens, claims and/or interests that attach to the Otsego  
17 Property, other than certain real property taxes, which the Trustee believes he has paid.  
18 Nonetheless, the Court should approve the sale of the Otsego Property free of any and all such  
19 liens, claims and interests as may exist under 11 U.S.C. § 363(f), because, first, such a sale is  
20 authorized under §363(f)(2) to the extent that the holder of a lien, claim, or interest fails to object  
21 to the Motion. *See In re Haven Eldercare*, 390 B.R. 762, 771 (Bankr. D. Conn. 2008) (finding  
22 that sale free and clear is “appropriate by consent pursuant to Section 363(f)(2)” where “[t]here  
23 have been no objections filed or presented”); *In re Elliot*, 94 B.R. 343, 345 (E.D. Pa. 1988)  
24 (“[I]mplied consent is sufficient to authorize a sale under § 363(f)(2).”); *see also Citicorp*  
25 *Mortgage v. Brooks (In re Ex-Cel Concrete Co.)*, 178 B.R. 198, 203 n.7 (9th Cir. BAP 1995)  
26 (noting that approval of sale free and clear of interest of Citicorp would be permissible under §  
27 363(f)(2) if there was “consent or non-opposition by Citicorp”).

28 Second, to the extent that there does exist a holder of a lien, claim or interest in the

1 Otsego Property and such holder objects to the proposed sale, the Trustee proposes that any such  
2 lien, claim or interest shall attach to the proceeds of the sale (except that any undisputed property  
3 tax liens will be paid through escrow at the closing of the sale) in the same validity and priority  
4 and subject to the same defenses and avoidability, if any, as before the closing of the sale. Under  
5 such circumstances, a sale of the property free and clear of any such claims is permitted under §  
6 363(f). *See, e.g., In re Spanish Peaks Holdings II LLC*, 2012 Bankr. LEXIS 1944, at \*26 (Bankr.  
7 D. Mont. May 3, 2012) (“This Court routinely authorizes trustees to sell property of the estate  
8 free and clear of liens under authority of 11 U.S.C. § 363(f), with a provision that all valid liens  
9 attach to the proceeds of the sale according to their priority.”); *In re Canonigo*, 276 B.R. 257,  
10 263 (Bankr. N.D. Cal. 2002) (holding that § 363(f) authorizes sale free and clear of a secured  
11 claim provided that the lien attaches to the sale proceeds).

12 Accordingly, the Court should order that the sale of the Otsego Property will be free and  
13 clear of all liens, claims, and interests, whether or not of record.

14 **D. The Court Should Order Turnover of the Otsego Property**

15 The Court should include in its Order authorizing the sale a requirement that the Otsego  
16 Property that the Debtor and any persons acting under her direction and control turn over  
17 possession of the Otsego Property promptly upon entry of the Court’s order approving the sale.  
18 The Bankruptcy Code requires the debtor to “cooperate with the trustee as necessary to enable  
19 the trustee to perform the trustee’s duties under this title” and to “surrender to the trustee all  
20 property of the estate.” 11 U.S.C. § 521(a)(3)–(4). If the trustee can generate net revenue for the  
21 estate from the sale of estate property, including the debtor’s house, the trustee is entitled to sell  
22 the property and require that the debtor turn over the property to him. *See, e.g., In re Ellis*, 2011  
23 Bankr. LEXIS 89, at \*13 (Bankr. D. Idaho Jan. 7, 2011) (“Here, Trustee may sell the house  
24 under § 363. When he does, the sale will generate significant value which benefits the creditors  
25 in this case. Trustee is therefore justified in requiring that Debtors turn over possession of the  
26 house to him for sale, and Debtors must do so.”). Because the sale of the Otsego Property will  
27 generate substantial revenue for the Estate, the Court should order the Debtor (and any persons  
28 acting under her direction and control) to turn over possession of that property to the Trustee.

1 The Trustee expects that Ms. Collins, the tenant at the Otsego Property, will vacate the property  
2 by the end of May, 2017. To the extent that Ms. Collins remains in the Otsego Property at the  
3 time the Court enters its Order approving the sale, the Trustee further requests that such Order  
4 also require that Ms. Collins surrender the Otsego Property to the Trustee.

5 **E. The Court Should Authorize the Payment of Commission and Costs from the**  
6 **Sale Proceeds**

7 The Court should authorize the payment of the real estate brokers' commission and the  
8 other costs of sale from the gross sale proceeds without further order of the Court. The Trustee  
9 will not be able to close escrow without paying these amounts, and the claims that will be  
10 satisfied would otherwise constitute administrative expense claims under 11 U.S.C. § 503(b).

11 **F. The Court Should Make a Good Faith Finding Under 11 U.S.C. § 363(m)**

12 The Court should find that the Successful Bidder (and the Back-Up Bidder, if any) is a  
13 good faith purchaser, because neither the Purchaser nor any potential overbidder has engaged in  
14 fraud, collusion, or an attempt to take unfair advantage of other bidders. The Bankruptcy Code  
15 provides that the "reversal or modification on appeal of an authorization . . . of a sale or lease of  
16 property does not affect the validity of a sale or lease under such authorization to an entity that  
17 purchased or leased such property in good faith." 11 U.S.C. § 363(m). While the Bankruptcy  
18 Code does not define "good faith," the Ninth Circuit has held that "[l]ack of good faith . . . is  
19 determined by fraudulent conduct during the sale proceedings." *Community Thrift & Loan v.*  
20 *Suchy (In re Suchy)*, 786 F.2d 900, 902 (9th Cir. 1985). Similarly, the Ninth Circuit Bankruptcy  
21 Appellate Panel has stated that "the misconduct that would destroy a purchaser's good faith  
22 status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the  
23 trustee, or an attempt to take grossly unfair advantage of other bidders." *Prichard v. Sherwood*  
24 *& Roberts, Inc. (In re Kings Inn, Ltd.)*, 37 B.R. 239, 243 (9th Cir. BAP 1984), quoting *In re Rock*  
25 *Industries Machinery Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978). The Trustee's court-approved  
26 real estate broker, Berkshire Hathaway, has conducted a diligent marketing process with the goal  
27 of attracting as many potential purchasers as possible. Berkshire Hathaway will continue to  
28 actively market the Otsego Property until the hearing on the Motion and will encourage all

1 interested parties to qualify as overbidders and participate in the auction. Further, at or prior to  
2 the hearing on the Motion, the Purchaser and any parties qualifying as overbidders will be  
3 required to submit statements under penalty of perjury regarding the matters relevant to a §  
4 363(m) determination. Accordingly, the Successful Bidder (and the Back-Up Bidder, if any) will  
5 be selected through an open, fair, and competitive process, and should be determined to be a  
6 good faith purchaser under § 363(m).

7 **G. The Court Should Waive the 6004(h) Stay Period**

8 The Court should waive the stay period imposed by Federal Rule of Bankruptcy  
9 Procedure 6004(h) so that the sale of the Otsego Property can close promptly and the Trustee's  
10 administration of the Estate will not be further delayed. Federal Rule of Bankruptcy Procedure  
11 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash  
12 collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders  
13 otherwise." The Rule therefore contemplates that the Court may order that the stay period is  
14 waived.

15 The Trustee believes that it is appropriate for the Court to waive the stay period to  
16 prevent any further delay in the Trustee's administration of the Estate. As described above, the  
17 Otsego Property operates on a negative cash flow basis, and (especially now that the tenant is  
18 vacating the Otsego Property) constitutes a continuing drain on the Estate. For that reason, the  
19 Court should waive the stay period so that the Trustee can close the sale of the Otsego Property  
20 as expeditiously as possible.

21 **IV.**


22 **CONCLUSION**

23 For the reasons set forth above, the Trustee respectfully requests that the Court enter an  
24 order: (a) approving the bidding procedure set forth above; (b) authorizing the Trustee to sell the  
25 Otsego Property to the Successful Bidder or, if appropriate, the Back-Up Bidder; (c) ordering that  
26 the sale will be free and clear of liens, claims, and interests, whether or not of record, with any and  
27 all liens (other than any undisputed property tax liens, which will be paid through escrow at the  
28 closing of the sale), claims, and interests in the Otsego Property to attach to the net sale proceeds in

1 the same validity and priority and subject to the same defenses and avoidability, if any, as before the  
2 closing of the sale; (d) authorizing the Trustee to pay a commission of up to 7% of the final purchase  
3 price and other costs of sale from the gross sale proceeds without further order of the Court; (e)  
4 finding that the Successful Bidder (and the Back-Up Bidder, if any) is a good faith purchaser within  
5 the meaning of 11 U.S.C. § 363(m); and (f) waiving the 14-day stay period set forth in Federal Rule  
6 of Bankruptcy Procedure 6004(h).

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DATED: May 12, 2016

  
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JON L.R. DALBERG  
LANDAU GOTTFRIED & BERGER LLP  
Counsel for John P. Reitman, Chapter 11 Trustee



**DECLARATION OF JOHN P. REITMAN**

I, John P. Reitman, declare as follows:

1. I am the duly appointed and serving Chapter 11 Trustee (“Trustee”) for the bankruptcy estate of Shirley Foose McClure, debtor (the “Debtor”) in *In re Shirley Foose McClure*, pending before the United States Bankruptcy Court for the Central District of California, San Fernando Valley Division (“Court”) as Case No. 1:13-bk-10386-GM (“Bankruptcy Case”). Except as otherwise stated, each of the facts stated in this declaration is based on my knowledge as Trustee, and if called upon to do so I could competently testify thereto. This declaration is made in support of the *Motion of John P. Reitman, Chapter 11 Trustee, for entry of an Order Authorizing Sale of 145 North Otsego Drive, Gaylord, MI 49735 Free and Clear of Liens, Claims and Interests* (the “Motion”), to which this declaration is appended. Unless otherwise indicated, capitalized terms used in this declaration shall have the same meaning as is ascribed to them in the Motion.

**A. Procedural History**

2. I am informed and believe based upon my review of the matters of record in the Court docket of this Bankruptcy Case that (a) the Debtor commenced this Bankruptcy Case by filing her voluntary petition for relief under Chapter 11 of the Bankruptcy Code on December 21, 2012 (the “Petition Date”); and (b) the Debtor’s Estate is comprised of her interest in multiple parcels of income producing real property in Southern California, San Francisco, Maui and Michigan and certain claims asserted in litigation against attorneys who formerly represented her.

3. I am further informed and believe based upon my review of the matters of record in the Court docket of this Bankruptcy Case that (a) on July 12, 2016, the Court entered an order directing the Office of the United States Trustee to appoint a chapter 11 trustee (Docket No. 1090); (b) on July 27, 2016, the United States Trustee appointed me as the Chapter 11 Trustee (Docket No. 1105) (I accepted that appointment on the same date (Docket No. 1106)); and (c) on August 3, 2016, the Court entered its order approving my appointment as Trustee (Docket No. 1113).

**B. The Otsego Property**

4. I am further informed and believe based upon my review of the matters of record in the Court docket of this Bankruptcy Case that the Estate owns three real properties in Gaylord

1 Michigan: the Otsego Property, another residential property located at and 93 Invitational Drive,  
2 Gaylord, MI 49735 (“Invitational Property”) and the adjacent Lot 13, Invitational Drive (“Lot 13”  
3 and, together with the Invitational Property and the Otsego Property, the “Michigan Properties”). By  
4 the Motion, I seek an order authorizing the sale of the Otsego Property.

5 5. Based on my review of a preliminary title report obtained at my request, I am  
6 informed and believe that the Otsego Property is not encumbered by any secured debt. There may  
7 be real property tax liens against the Otsego Property. I have tendered payment of those liens to the  
8 appropriate authority. To the extent that these tax liens are not paid before close of escrow on the  
9 proposed sale of the Otsego Property, they will be paid through the close of escrow.

10 6. On August 1, 2016, shortly before my appointment as Trustee, the Debtor entered  
11 into a one year Residential Lease Agreement pursuant to which the Otsego Property was leased to a  
12 tenant, Gail Collins, for \$1,200 per month. A copy of that Residential Lease Agreement is attached  
13 hereto as Exhibit A. Nonetheless, the costs of repairing and maintaining the Otsego Property have  
14 totaled \$11,590.46 since my appointment, and the Otsego Property has not generated a positive cash  
15 flow for the Estate during my administration of the Estate. Accordingly, I have determined in the  
16 exercise of my sound business judgment that a sale of the Otsego Property is in the best interests of  
17 the Debtor’s Estate and all having an interest therein.

18 7. Apart from property insurance premiums in the aggregate amount of \$1,269.90, such  
19 maintenance and repair costs have included \$4,953.40 for repairs to the plumbing system, \$921.90  
20 for repairs to the basement of the property which flooded in September, 2016, \$487.56 to replace a  
21 broken clothes washing machine, and \$2,288.78 in delinquent property taxes that were not timely  
22 paid by the Debtor. Moreover, in February, 2017, in the dead of the Michigan winter, I was  
23 informed by the tenant and a plumber which I hired to inspect the property that the furnace had  
24 failed, apparently because routine maintenance had not been performed by the Debtor, occasioning  
25 the expenditure of an additional \$1,014.00 in diagnostic work. The furnace and related heating  
26 system have not been repaired. Ms. Collins has arranged, with my agreement, to terminate the lease  
27 and will shortly vacate the property. The defect in the furnace and heating system have been  
28 disclosed to the purchaser of the property and the property is to be sold “as is.”

1           **C.     Marketing and Proposed Sale of the Otsego Property**

2           8.     On January 1, 2017, I caused to be filed and served my Application for an Order of  
3 the Court authorizing the employment of Berkshire Hathaway as listing agent and broker for the  
4 marketing and sale of the Michigan Properties (Docket No. 1164). The Debtor objected to the  
5 Application (Docket No. 1168). I timely filed and served my reply as Trustee to the Debtor's  
6 Objection (Docket No. 1169) and, following a hearing held on February 21, 2017, the Court entered  
7 its order overruling the Debtor's Objection and granting the Application on February 28, 2017  
8 (Docket No. 1172).

9           9.     Berkshire Hathaway has actively marketed the Otsego Property since that time, and  
10 has received offers from two prospective purchasers which it presented to me, as Trustee. I have  
11 agreed, in the exercise of my sound business judgment, to sell the Otsego property "as is" to the  
12 Purchaser for \$250,000.00. The Purchaser is aware and acknowledges that the furnace and heating  
13 system do not work properly. Moreover, the Debtor has asserted that her son, Jason McClure,  
14 claims ownership of certain personal property in the Otsego Property. Accordingly, the Purchaser  
15 has acknowledged that only fixtures, built in appliances and a clothes washing machine which I  
16 caused to be purchased by the Estate are included in the sale. A copy of the documents comprising  
17 the Purchase Agreement is attached hereto as Exhibit B. The Otsego Property is being sold "as is,"  
18 with no contingencies or warranties. A copy of the documents comprising the Purchase Agreement  
19 is attached hereto as Exhibit B. The sale of the Otsego Property to the Purchaser is subject to  
20 approval by the Court and to overbid, as set forth in the Motion.

21           10.    The Purchaser has paid a deposit of \$25,000.00 which has been placed in escrow with  
22 AT&E, and has agreed to pay the remainder of the purchase price in cash upon the close of escrow.


23           11.    I believe that entering into the Purchase Agreement, seeking overbids, and conducting  
24 an auction in accordance with the procedures set forth in the Motion will permit me to obtain the  
25 maximum value for the estate from the Otsego Property.

26           12.    I believe that it is appropriate for the Court to waive the 14-day stay imposed by  
27 Federal Rule of Bankruptcy Procedure 6004(h) so that the sale of the Otsego Property can close  
28 promptly. The Otsego Property operates on a negative cash flow basis, and (especially now that the

1 tenant is vacating the Otsego Property) constitutes a continuing drain on the Estate. For that reason,  
2 the Court should waive the stay period so that the sale of the Otsego Property can close as  
3 expeditiously as possible.

4 I declare under penalty of perjury under the laws of the United States that the foregoing is  
5 true and correct.

6 Executed this 12<sup>th</sup> day of May, 2017 in Los Angeles, California.

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9 John P. Reitman, Trustee

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# EXHIBIT A

**RESIDENTIAL LEASE AGREEMENT**

**NOTICE: Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.**

This lease (the Lease) is entered into on August 1, 2016, between Shirley McClure, of P.O. Box 2497, Fullerton, CA 92837 (Landlord), and Dawn DeForge Collins of Gaylord, MI (Tenant), on the terms and conditions set forth below.

1. **Basic Lease Provisions.** The basic lease provisions are stated forth below and further explained in the section referenced to the right of each provision:

- (a) Premises: 145 N. Otsego, Gaylord, MI 49735 See §2
- (b) Term: 12 month(s), beginning (August 1, 2016), and ending July 31, 2017 See §3
- (c) Rent: \$ 1200.00 per month beginning Aug. 1, 2016 with first week move-in credit of \$271.00 deducted leaving a balance due of \$ 929.00. See §4  
Premises include: Washer, Dryer, Refrigerator, Stove, Microwave, Dishwasher, Chandeliers.
- (d) Security deposit: \$ 1000.00. Total move in due of \$1,929.00. See §5
- (e) Number of occupants: Four (4) See §6  
Names of persons who will occupy the Premises with the Tenant: Dawn Collins, her daughter and son and possibly her mother.

(f) Tenant shall be responsible for the utilities checked below: See §17

- Garbage removal 8/5/16
- Water and sewer 8/5/16
- Gas 8/5/16
- Electricity 8/6/16
- Lawn and garden
- Snow removal
- Telephone
- Cable/ Internet

2. **Premises.** The Tenant leases from Landlord the real property as referenced in section 1(a) (the Premises), together with any furnishings, fixtures, personal property, and appurtenances furnished by Landlord for Tenant's use. Tenant **Dawn Collins is making separate**

agreement with landlord's son Jason McClure to use some of Jason's personal furnishings at "no charge" at the rental for the same term as the rental. Dawn and Jason will prepare a listing of said agreed upon items to be left for her use at the premises only.

3. **Term.** The term of this Lease shall be for the term beginning and ending as stated in section 1(b). References in this Lease to the term of the Lease include any renewal terms. Tenant shall receive possession on the signing of the Lease.

4. **Rent.** Tenant shall pay Landlord, by **Bank Wire Transfer**, at the **Landlord's Bank, Wells Fargo Bank located in Fullerton, California**, stated above or an address designated by Landlord as itemized on Addendum, monthly rent installments as stated in section 1(c), payable in advance, on or before the fifth day of each month during the term of this Lease. Tenant shall pay the first monthly installment when Tenant signs the Lease. Tenant shall pay Landlord a late fee of \$50 for each monthly installment not received by Landlord within five days of its due date. This increase shall be considered additional rent and shall compensate Landlord for costs incurred because of late payments. Landlord's right to collect this additional rent shall be in addition to Landlord's right to take action under other provisions of this Lease for Tenant's default in paying rent. The Tenant shall pay all additional rent to Landlord promptly after the due date of the delinquent installment. All rent paid after the due date and payments to cover checks that have been returned for insufficient funds must be paid at the place designated for payment, by cashier's check, certified check, or money order.

5. **Security deposit.** On the signing of the Lease, Tenant deposited with Landlord a security deposit in the amount stated in section 1(d) (not to exceed 1 1/2 months' rent) as a security deposit to reimburse Landlord for actual damages to the rental unit or ancillary facilities that directly result from conduct not reasonably expected in the normal course of habitation of a dwelling and to pay Landlord for all rent in arrearage or due for premature termination of this Lease by Tenant and for any of Tenant's utility bills not paid by Tenant. Tenant is liable for any balances remaining unpaid after Landlord applies the security deposit to such amounts.

6. **Use.** Tenant shall use the Premises solely as a single-family residence. No persons other than those listed at the end of this Lease shall occupy the Premises for more than seven days during the term of this Lease without prior written consent from Landlord. The maximum number of persons permitted to occupy the Premises is set forth in section 1(e). The names of all persons who will occupy the Premises are also set forth in section 1(e).

Tenant agrees that neither Tenant, nor a member of Tenant's household, nor any other person under Tenant's control will unlawfully manufacture, deliver, possess with intent to deliver, or possess a controlled substance on the Premises

7. **Condition of the Premises.** Tenant acknowledges that no representations about the condition of the Premises or promises to alter or to improve the Premises before or during the term of the Lease have been made except as stated in this Lease.

**8. Maintenance, repairs, and damage of the Premises.** Throughout the term of the Lease, Tenant shall maintain the Premises in good condition and shall allow no waste of the Premises or any utilities. Tenant shall be liable for any damage to the Premises or to Landlord's other property that is caused by the acts or omissions of Tenant or Tenant's guests. Tenant shall pay, on Landlord's demand, to replace any broken window glass on the Premises or any lost or broken keys.

**9. Decorations and alterations.** Other than hanging decorations on the walls with nails or other materials approved by Landlord, Tenant shall not alter or decorate the Premises without prior written consent from Landlord. Landlord's consent to a particular decoration or alteration shall not be deemed consent to future decorations or alterations. Tenant shall not remove any furnishings Landlord furnishes to Tenant, drive nails into the woodwork, or use any adhesive material on the walls without prior written consent from Landlord.

**10. Assignments and subleases.** Tenant shall not assign this Lease or sublease any part of the Premises.

**11. Interruption of services.** As long as the Premises are habitable and Landlord makes any repairs or improvements within a reasonable period of time, any interruption of services or utilities, inconvenience, or discomfort arising from repairs or improvements to the Premises shall not affect this Lease, reduce the rent, or be construed as an eviction.

**12. Prohibitions.** Neither Tenant nor Tenant's guests shall

- a. install any equipment or appliances that, in Landlord's opinion, cause an unsafe condition on the Premises;
- b. accumulate refuse on or around the Premises that might pose a health hazard to Tenant or to Tenant's neighbors;
- c. allow any activity on or around the Premises that would result in an increase in fire insurance premiums for the Premises;
- d. permit any flammable liquids or explosives to be kept on or around the Premises;
- e. permit on the Premises any act that would injure Landlord's reputation or interfere with the rights or the quiet enjoyment of other persons;
- f. change or install any locks on the Premises or in the building where the Premises are located without written consent from Landlord;
- g. bring any water beds, floor safes, or other heavy objects on the Premises;
- h. ~~bring any animals on the Premises without written consent from Landlord.~~ *70lb walker mix, Hunter, OK by Landlord. DPC*



i. unlawfully manufacture, deliver, possess with intent to deliver, or possess a controlled substance on the leased premises; or

j. permit any laws to be violated on the Premises.

**13. Access to the Premises.** Tenant shall allow Landlord and Landlord's agents reasonable access to the Premises to inspect, repair, alter, or improve the Premises. Tenant shall also allow insurance carriers and representatives, fire department inspectors, police, or local health authorities to inspect the Premises to the extent permitted by law. Tenant shall allow Landlord or Landlord's agents to show the Premises to prospective Tenants at reasonable times during the 60 days before the term of this Lease expires and to prospective purchasers on reasonable notice to Tenant.

**14. Vacation or abandonment of the Premises.** If Tenant removes substantially all Tenant's property from the Premises, Landlord may immediately enter and redecorate the Premises without abatement of rent; and these acts shall not affect Tenant's obligations under this Lease. If Tenant abandons the Premises before the Lease expires, all rent for the remainder of the term of the Lease shall immediately become due.

**15. Property loss or damage.** To the extent permitted by law, Landlord and Landlord's agents shall not be liable for any damage to property or loss of property that is caused by theft or casualty on the Premises. Landlord recommends that Tenant obtain insurance to protect Tenant's personal property against such loss or damage.

**16. Damage or destruction of the Premises.** If a casualty partially destroys the Premises but they can be restored to a tenable condition within 30 days, Landlord shall repair the Premises with reasonable dispatch; however, Landlord's obligation to repair the Premises shall be limited to the amount of insurance proceeds actually received by Landlord. Tenant's obligation to pay rent shall be suspended while the Premises are untenable. If a casualty damages the Premises to the extent that they cannot be restored to a habitable condition within 30 days, either party may terminate this Lease by giving the other party written notice within 15 days after the casualty. Landlord shall not be liable for any reasonable delay or for providing housing for Tenant during repairs.

**17. Utilities.** Tenant is responsible for the costs of the utilities and services for the Premises marked in section 1(f). Landlord is responsible for the payment of the cost of the services and utilities listed in that section and not marked for payment by Tenant.

**18. Limited cancellation right.** Tenant who has a reasonable apprehension of present danger to him/her or his/her child from domestic violence, sexual assault, or stalking may have special statutory rights to seek a release of rental obligation under MCL 554.601b.

**19. Early termination.** If Tenant has occupied the unit for more than 13 months and Tenant becomes eligible during the lease term to take possession of a subsidized rental unit in senior citizen housing and provides Landlord with written proof of that eligibility or Tenant becomes incapable during the lease term of living independently, certified by a physician in a

notarized statement. Tenant may terminate this lease with a 60-day written notice to Landlord.

**20. Termination.** When this Lease terminates, Tenant shall surrender possession of the Premises to Landlord in the condition they were in when they were delivered to Tenant, except for normal wear and tear. Tenant shall also return all keys for the Premises to Landlord.

**21. Default and Landlord's remedies.**

a. If Tenant defaults on any obligations under this Lease or misrepresents any information in the application for this Lease, Landlord may, on written notice to Tenant, terminate the Lease and enter the Premises as permitted by law; Tenant and any other occupants shall surrender the Premises to Landlord by the date stated in the notice. If Landlord terminates the Lease, Landlord may recover Landlord's expenses for enforcing Landlord's rights under the Lease and applicable law, including court costs and attorney fees, from Tenant, as permitted by statute; and rent for the rest of the term of the Lease shall immediately become due. Tenant may not be liable for the total accelerated amount because of Landlord's obligation to minimize damages, and either party may ask a court to determine the actual amount owed, if any. If Tenant fails to pay rent or any other sums when due to Landlord, Landlord serves a notice of default on Tenant as required by law, and Tenant fails to remit the amounts due before the notice period expires, the amount of court costs and attorney fees incurred by Landlord in enforcing Landlord's remedies and allowed by statute shall be added to the amount of the arrearage.

b. It is a violation of this lease if Resident, a member of Resident's household, or any other person under Resident's control unlawfully manufactures, delivers, possesses with intent to deliver, or possesses a controlled substance as defined by Michigan law anywhere on the leased premises, including the apartment or any part of the apartment building or common areas or facilities. Pursuant to Michigan law, if Resident violates this provision, Owner may serve a written demand for possession for termination of this lease, giving Resident 24 hours' notice of the lease termination and demand for possession. Resident acknowledges that an order of eviction/writ of restitution may be issued by the court immediately after the entry of a judgment for possession.

Resident's initials: DDC

**22. Holding over.** Tenant may, with Landlord's permission, continue to occupy the Premises after the term of this Lease expires without renewing this Lease or signing another lease for the Premises. Such tenancy shall be on a month-to-month basis and subject to the provisions of this Lease except that the monthly rent shall increase 10 percent from the rent for the last month of the term of the Lease, and Landlord may increase rent on 30 days' notice to Tenant.

**23. Notices.** Any notices under this Lease shall be in writing and delivered to the recipient personally or by first-class mail fully prepaid at the recipient's last known address. Unless

otherwise required by law, the date of service shall be the date of hand delivery or the mailing date.

24. **Modifications.** No modifications of this Lease shall be binding unless they are in writing and signed by Landlord and Tenant.

25. **Whole agreement.** This Lease sets forth the entire agreement between Landlord and Tenant. There are no verbal or written agreements that are not contained in this Lease between the parties.

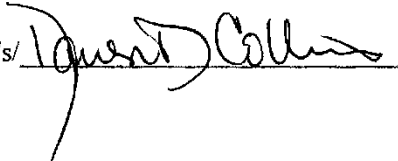
26. **Binding effect.** This Lease shall bind and benefit the parties to the Lease and their heirs, personal representatives, successors, and permitted assigns.

27. **Severability.** If any provision of this Lease is invalid, unlawful, or unenforceable to any extent, the rest of the Lease and the application of the provision to persons or circumstances other than those for which it is invalid, unlawful, or unenforceable are not affected.

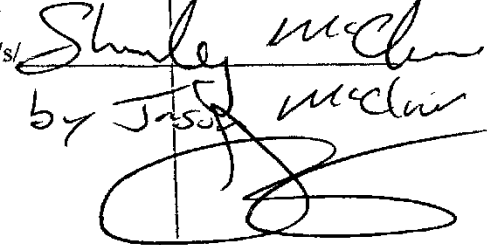
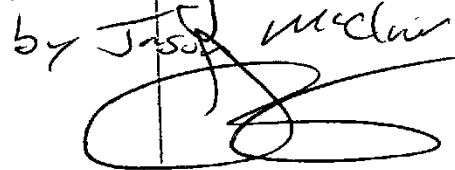
28. **Time of the essence.** Time shall be deemed to be of the essence in the performance of this Lease.

29. **Effective date.** This lease is effective on the date first stated in this Lease.

TENANT

/s/ 

LANDLORD

/s/   
by 

INVENTORY CHECKLIST FOR (ADDRESS)

**You should complete this checklist, noting the condition of the rental property, and return it to the Landlord within 7 days after obtaining possession of the rental unit. You are also entitled to request and receive a copy of the last termination inventory checklist which shows what claims were chargeable to the last prior Tenants.**

**You must notify your Landlord in writing, within 4 days after you move, of a forwarding address where you can be reached and where you will receive mail; otherwise your Landlord shall be relieved of sending you an itemized list of damages and the penalties adherent to that failure.**

Landlord's name and address

Shirley McClure, P.O. Box 2497, Fullerton, California 92837

Name(s) of the Tenant(s)

Dawn DeForge Collins

	MOVE-IN CHECKLIST	MOVE-OUT CHECKLIST
	Move-In Date: 8/7/16	Move-Out Date:
<b>Kitchen</b>		
Refrigerator	✓	
Range & oven	✓	
Broiler	✓	
Range hood & fan	N/A	
Sink & counter	✓	
Garbage disposal	N/A	
Cabinets	✓	
Light fixture	✓	
Walls/ceiling & Paint	3 staining on ceiling above microwave	
Carpet/floor	scratches on floor	
Curtains or Draperies	N/A	
Windows & Screens	X2	
Furniture	N/A	
Closets	N/A	
Shelves	✓	
Doors	✓	
Plumbing fixtures	✓	
Other	N/A	
<b>Dining room</b>		
Thermostat	N/A	
Air conditioner	N/A	
Door	X2	
Windows & Screens	✓	
Walls/ceiling & Paint	Walls painted	
Carpet/floor	Carpet OK	
Curtains or Draperies	white X2	
Light fixture	✓	
Furniture	N/A	
Closets	N/A	
Shelves	N/A	
Other	N/A	

**Living room & Library**

Thermostat	hall	
Air conditioner	N/A	
Door	✓	
Windows & screens	✓	
Walls/ceiling & paint	rough plaster, blind heaters	
Carpet/floor	some staining	
TV cord & adaptor	N/A	
Curtains or draperies	stripes x2	
Light fixture	✓	
Furniture	Book case	
Closets	N/A	
Shelves	N/A	
Other	N/A	
<b>Bathroom 1 Floor</b>		
Bathtub/shower	N/A	
Sink & counter	✓	
Medicine cabinet	N/A	
Vent fan	✓	
Ceramic tile	N/A	
Light fixture	✓	
Walls/ceiling & paint	open plaster above sink	
Carpet/floor	wood floor - 2 hrs	
Curtains or draperies	green stripes	
Windows	✓	
Closets	N/A	
Shelves	N/A	
Doors	✓	
Toilet	✓	
Other	N/A	

Computer room - broken outside window  
Set of white shelves

Carpet runner  
on 2nd floor

Bedroom No. 1	
Doors	✓
Windows & screens	X 2
Light fixture	✓
Walls/ceiling & paint	few smudges on walls
Carpet/floor	navy carpet
Closets	⊙
Curtains or draperies	cream X 2
Furniture	N/A
Shelves	N/A
Other	N/A
Bedroom No. 2	
Doors	✓
Windows & screens	X 2
Light fixture	✓
Walls/ceiling & paint	✓
Carpet/floor	maroon carpet
Closets	✓
Curtains or draperies	brown X 2
Furniture	Armoire, bed, nightstand, dresser
Shelves	N/A
Other	N/A
Bedroom No. 3	
Doors	✓
Windows & screens	X 2
Light fixture	✓
Walls/ceiling & paint	✓
Carpet/floor	maroon/olive carpet
Closets	✓
Curtains or draperies	cream X 2
Furniture	N/A
Shelves	N/A
Other	N/A
Floors	wood
Windows	-
Other	N/A
Bedroom No. 4	

Doors	✓	
Windows & screens	X 1	
Light fixture	✓	
Walls/ceiling & paint	OK	
Carpet/floor	red carpet	
Closets	✓	
Curtains or draperies	tan tweed	
Furniture	∅	
Shelves	∅	
Other	∅	

*TV stand*

<b>3<sup>rd</sup> Floor Bonus Room</b>		
Doors	N/A	
Windows & screens	X 3	
Light fixture	on ceiling	
Walls/ceiling & paint	Some scraped on stairs/walls	
Carpet/floor	Maroon/red/green/red Maroon/Navy Carpet	
Closets	N/A	
Curtains or draperies	N/A	
Furniture	2 chairs small table Couch, coffee table, Pub table Eaton chair, dining table 4 chairs and bench, 2 stools & chairs Cabinet	
Shelves		
Other	N/A	
Floors	wood	
Windows		

*Scratch on Pub table*

<b>Bathroom 2nd Floor</b>		
Bathtub/shower	✓	
Sink & counter	✓	
Medicine cabinet	N/A	
Vent fan	✓	
Ceramic tile	floor	
Light fixture	✓	
Walls/ceiling & paint	✓	



Rug on stairs - multi-colored | Saddle or wood on stairs

Carpet/floor	black rug		
Curtains or draperies	N/A		
Windows	✓		
Closets	N/A		
Shelves	N/A		
Doors	✓		
Toilet	✓		
Other	N/A		
<b>Bathroom 3rd Floor</b>			
<del>Bath</del> /shower	✓		
Sink & counter	✓		
Medicine cabinet	✓		
Vent fan	✓		
Ceramic tile	N/A		
Light fixture	✓		
Walls/ceiling & paint	OK		
Carpet/floor	wood		
Curtains or draperies	N/A		
Windows	one		
Closets	N/A		
Shelves	✓		
Doors	✓		
Toilet	✓		
Other	Small table		

ITEMIZED LIST OF CHARGES RE: (ADDRESS)

Tenant: Dawn DeForge Collins

Forwarding address:  
\_\_\_\_\_  
\_\_\_\_\_

Date list was mailed to Tenant:  
\_\_\_\_\_

CREDITS

Security deposit \$         
Other \$ 1,000.00  
TOTAL CREDITS \$ 1,000.00

CHARGES

Rental arrearage \$ \_\_\_\_\_  
Rent due for premature termination of the Lease by Tenant \$ \_\_\_\_\_  
Tenant's utility bills not paid by Tenant \$ \_\_\_\_\_  
Damages to property and estimated cost of repair:  
a. \_\_\_\_\_ \$ \_\_\_\_\_  
b. \_\_\_\_\_ \$ \_\_\_\_\_  
c. \_\_\_\_\_ \$ \_\_\_\_\_  
d. \_\_\_\_\_ \$ \_\_\_\_\_  
e. \_\_\_\_\_ \$ \_\_\_\_\_  
TOTAL CHARGES \$ \_\_\_\_\_

AMOUNT OWED TO TENANT (if charges are less than credits, Tenant is entitled to receive this amount) \$ \_\_\_\_\_

ADDITIONAL AMOUNT OWED TO LANDLORD (if credits are less than charges, Tenant owes this additional amount to Landlord) \$ \_\_\_\_\_

**You must respond to this notice by mail within 7 days after receipt of it; otherwise, you will forfeit the amount claimed for damages.**

F:\WS\hcd\Forms\Leases\Single Family Residential Lease.doc

## EXHIBIT B



### Buy and Sell Agreement



A-1

Offer Date: April 24, 2017

Selling Office: Berkshire Hathaway Home Services ("Selling Broker")

Selling REALTOR@: Pat & Brian Goebel

Selling REALTOR@s Email Address: lynchgoebel@msn.com

Selling REALTOR@s Phone: (989) 732-9555 Facsimile: (989) 732-5751

Listing Office: Berkshire Hathaway Home Services ("Listing Broker")

Listing REALTOR@: Pat & Brian Goebel

Listing REALTOR@s Email Address: lynchgoebel@msn.com

Listing REALTOR@s Phone: (989) 732-9555 (989) 350-8100 Facsimile: (989) 732-5751

1. **PROPERTY DESCRIPTION:** Buyer agrees to buy from Seller the property located at 145 N. Otsego Gaylord  
City of Gaylord, Otsego County, Michigan, and legally  
described as: lot 3 and 1/2 of Lot 2 Block 2 City of Gaylord

The property includes all buildings; all fixtures; all gas, oil, and mineral rights owned by Seller; built-in appliances; lighting fixtures; plumbing fixtures; water softener (unless rented); heating fixtures; electrical fixtures; radio and television antennas and any mechanical controls; shades; awnings; shutters; window blinds; curtain and drapery rods; attached floor coverings; attached fireplace doors and screens; garage door openers and controls; screens, storm windows and doors; landscaping, fences, and mailboxes, if any; and **all appliances not owned by renter**  
**EXCLUDES ANY HARDWARE, DRAPERIES CURTAINS OWNED BY RENTER**  
but does not include: any appliances/ furnishings/ attachments owned by renter

2. **PURCHASE PRICE:** The purchase price for the property is \$ 250,000.00

3. **METHOD OF PAYMENT:** All payments must be in the form of cash, certified check, cashiers check, or money order. The purchase will be completed by the following method:

- CASH:** Buyer will pay the purchase price in cash upon Seller's delivery of a warranty deed conveying marketable title.
- NEW MORTGAGE:** This Agreement is contingent on Buyer's ability to obtain a \_\_\_\_\_ mortgage loan in the amount of \$ \_\_\_\_\_. Buyer will provide evidence of mortgage application and appraisal order from Buyer's lender within \_\_\_\_\_ days of the date of this Agreement. If Buyer fails to deliver to Seller evidence of the loan approval before \_\_\_\_\_, Seller may cancel this Agreement. The sale will be completed upon Seller's delivery of a warranty deed conveying marketable title.
- LAND CONTRACT:** Buyer will purchase the property on land contract with a \$ \_\_\_\_\_ down payment and monthly installments of principal and interest in the amount of \$ \_\_\_\_\_ or more, including annual interest of \_\_\_\_\_ percent. Buyer will pay the entire balance, which may require a lump-sum payment, within \_\_\_\_\_ years after closing.
- MORTGAGE ASSUMPTION or LAND CONTRACT ASSIGNMENT:** If the holder of the mortgage or land contract agrees, Buyer will assume and pay Seller's existing mortgage or land contract according to its terms. Buyer will pay the difference between the purchase price and the existing balance of approximately \$ \_\_\_\_\_ upon Seller's delivery of a warranty deed or a land contract assignment. Buyer will reimburse Seller at closing for any funds held in escrow.

4. **TITLE INSURANCE:** Seller shall provide to Buyer, at Seller's expense, an owner's policy of title insurance with standard exceptions in the amount of the purchase price. Seller will apply for a commitment for title insurance within 14 days after the Buyer has waived all other contingencies contained in this Agreement. Any special exception will be subject to Buyer's approval, provided that this contingency shall be deemed waived unless Buyer notifies Seller in writing within 14 days of receipt of the commitment. Seller will have 30 days after receiving written notice to remedy any claimed defect.

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Berkshire Hathaway HomeServices, 715 S Wisconsin Gaylord, MI 49735  
Phone: (989)350-8100

Fax: Patricia Lynch-Goebel

Ron Kirpatrick

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5. **PROPERTY INSURANCE:** Seller shall be responsible for fire and extended coverage insurance on the property until sale is closed.
6. **CLOSING COSTS:** Seller shall pay all state and county transfer taxes and costs required to convey clear title. Buyer shall pay the cost of recording the deed and/or security interests and all mortgage closing costs and fees required in connection with the Buyer's loan and the issuance of the lender's title insurance policy.
7. **REAL ESTATE TAXES:** Seller will pay all prior years' real estate taxes. The current year's real estate taxes will be paid as follows:
- NO PRORATION: Seller will pay the taxes which are due before the date of closing. Buyer will pay taxes which are due on or after the date of closing. "Due" means the date on which a tax becomes payable.
- PRORATION: With current year taxes treated as though they are paid in  arrears  advance, based on a  calendar year  fiscal year.
- OTHER: with buyer being responsible for taxes from the date of closing
8. **SPECIAL ASSESSMENTS:** All special assessments for municipal improvements shall be paid by the Seller, provided, however, that in the event a special assessment is payable in installments, current and future installments shall be  allocated between Seller and Buyer using the same method for the proration of real estate taxes in paragraph 7 above; or  paid in full by Seller at closing.
9. **MISCELLANEOUS PRORATED ITEMS:** Rent, association fees, insurance (if assigned) and fuel, as well as interest on any existing land contract, mortgage or other lien assumed or to be paid by the Buyer, will be prorated to the date of closing.

Additional items: \_\_\_\_\_

10. **CLOSING DATE:** Sale to be closed on or before June 16, 2017.

11. **OCCUPANCY:** Seller will give occupancy as follows:

- Immediately after closing.
- \_\_\_\_\_ days after closing by 12:00 noon. From the date of closing to the date of vacating, Seller will pay Buyer \$ \_\_\_\_\_ per day as an occupancy charge. At closing, Seller will pay \$ \_\_\_\_\_ to Listing Broker to be held in escrow. After Buyer shall vacate the property, Listing Broker will use these funds to pay the accrued occupancy charge to Buyer and refund the balance, if any, to Seller. Seller is liable to Buyer for damage to the property occurring after closing and before vacating, to the extent not covered by the Buyer's homeowners policy, as well as for any deductible portions of a covered claim.

If tenants occupy the property, then:

- Seller will cause the tenants to vacate the property before closing.
- Buyer will take the property subject to the rights of the tenants.

12. **SELLER'S DISCLOSURE:**

- Buyer acknowledges that a Seller's Disclosure Statement has been provided to Buyer.
- Seller shall provide Buyer with a Seller's Disclosure Statement with Seller's acceptance of this offer. Pursuant to the Seller Disclosure Act, MCL 565.951, *et seq.*, Buyer will have 72 hours after hand-delivery of the disclosure statement (or 120 hours after delivery by registered mail) to terminate this Agreement by delivery of a written notice to Seller or Seller's agent.

13. **RELEASE:** Buyer and Seller acknowledge that neither Listing Broker nor Selling Broker, nor their respective agents, have made any representations concerning the condition of the property covered by this Agreement or the marketability of title, and Buyer and Seller release the Listing Broker and Selling Broker and their respective agents, with respect to all claims arising out of or related to this Agreement, any addendums or counteroffers; all claims arising from any purported representations as to the physical and environmental condition of the property covered by this Agreement or the marketability of title; and all claims arising from any special assessments and/or utility bills which have been or may in the future be charged against the property covered by this Agreement and, in addition, agree to indemnify and hold harmless the Listing Broker and Selling Broker and their respective agents from any and all claims related to those matters.

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14. **LEAD-BASED PAINT DISCLOSURE/INSPECTION (For residential housing built prior to 1978 only):** Buyer acknowledges that prior to signing this Agreement, Buyer has received a copy of the *Lead-based Paint Sellers Disclosure Form* completed by the Seller on \_\_\_\_\_, the terms of which shall be part of this Agreement. Buyer also agrees (check one below):

Buyer shall have \_\_\_\_\_ days after the date of this Agreement to conduct an inspection of the property for the presence of lead-based paint and/or lead-based paint hazards. (Federal regulations require a 10-day period or other mutually agreed upon period of time.) If Buyer is not satisfied with the results of this inspection, upon notice from Buyer to Seller within this period, this Agreement shall terminate and any deposit shall be refunded to Buyer.

Buyer hereby waives his/her opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

15. **LAND DIVISION ACT (For unplatted land only):** Seller and Buyer agree that the following statements shall be included in the deed at the time of delivery:

(a) The grantor grants to the grantee the right to make all (insert "zero" or a specific number, as appropriate) division(s) under section 108 of the Land Division Act, MCL 560.108.

(b) This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan right to farm act.

**CAUTION:** If the space contained in subparagraph (a) above is left blank, the deed will NOT grant Buyer the right to any divisions.

16. **PROPERTY INSPECTIONS:** Buyer has personally inspected the property and accepts it in AS IS present condition and agrees that there are no additional written or oral understandings except as otherwise provided in this Agreement.

[ This offer is contingent upon satisfactory inspections of the property, at Buyer's choice and at Buyer's expense, no later than \_\_\_\_\_ business days of the date of this Agreement. These inspections may include, but may not be limited to, structural and/or mechanical inspections, survey and site investigation, soil borings, as well as inspections for radon, pests, mold and/or asbestos. Buyer agrees to return the property to its prior condition after any inspections or tests. If Buyer is not satisfied with the results of any inspection, upon written notice from Buyer to Seller within this period, this Agreement shall terminate and any deposit shall be refunded to Buyer. In the event the Buyer neither removes the contingencies nor terminates this Agreement in the time provided, the Buyer shall be deemed to have waived this contingency. Any request by Buyer to modify this Agreement based on the results of an inspection shall terminate this Agreement unless: (a) the request is agreed to by Seller in writing, or (b) the Buyer removes the inspection contingency in writing within the time for inspections.

Buyer acknowledges that Selling Broker/REALTOR® has recommended that Buyer obtain an inspection of the property by an inspector and/or a licensed contractor. Buyer does not desire to obtain an inspection of the property.

17. **EARNEST MONEY DEPOSIT:** Buyer deposits \$ 5,000.00 to be held by 24 hours upon acceptance Berkshire Hathaway ("Escrowee") evidencing Buyer's good faith, which deposit shall be applied to the purchase price at closing.

If this offer is not accepted or title is not marketable, or insurable or if the terms of purchase are contingent upon ability to obtain a new mortgage or any other contingencies as specified, which cannot be met, this deposit shall be refunded to Buyer. In the event the Buyer and Seller both claim the earnest money deposit, the earnest money deposit shall remain in Escrowee's trust account until a court action has determined to whom the deposit must be paid, or until the Buyer and Seller have agreed in writing to the disposition of the deposit. (This paragraph may be subject to the arbitration provisions in paragraph 22 below.)

18. **DEFAULT:** If Buyer defaults, Seller may enforce this Agreement, or may cancel the Agreement, keep the deposit, and pursue legal remedies. If Seller defaults, Buyer may enforce this Agreement or may demand a refund of the deposit and pursue legal remedies. (This paragraph may be subject to the arbitration provisions in paragraph 22 below.)

19. **LIMITATION:** Buyer and Seller agree that any and all claims or lawsuits which they may have against the Listing Broker and its agents and/or Selling Broker and its agents relating to their services must be filed no more than six (6) months after the date of closing of the transaction described in this Agreement. Buyer and Seller waive any statute of limitations to the contrary.

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- 20. **ENTIRE AGREEMENT:** Buyer and Seller agree that this is the entire agreement between the parties and that there are no other written or oral understandings. Buyer and Seller further agree that this Agreement supersedes any and all prior agreements, understandings or representations made by the parties or their agents.
- 21. **WALK-THROUGH:** Buyer has the right to walk through the property within forty-eight (48) hours prior to closing.
- 22. **ARBITRATION:** Any dispute over the disposition of any earnest money deposits or claim arising out of or related to the physical condition of any property covered by this Agreement, included without limitation, claims of fraud, misrepresentation, warranty and negligence, shall be settled in accordance with the rules, then in effect, adopted by the endorsed provider of arbitration services for the Michigan Association of REALTORS®. This is a voluntary agreement between the Buyer and Seller. Failure to agree to arbitrate does not affect the validity of the Agreement. A judgment of any circuit court shall be rendered on the award or determination made pursuant to this Agreement. This Agreement is specifically made subject to and incorporates the provisions of the Michigan Uniform Arbitration Act, MCL 691.1681, *et seq.* This Agreement is enforceable only as to parties and brokers/agents who have agreed to arbitrate as acknowledged by their initials below. The terms of this paragraph shall survive the closing.

INITIAL IF YOU AGREE TO ARBITRATE:

Seller \_\_\_\_\_ Buyer \_\_\_\_\_ Listing Broker \_\_\_\_\_ Selling Broker \_\_\_\_\_

- 23. **ELECTRONIC COMMUNICATION:** As an alternative to physical delivery, the parties agree that this Agreement, any amendment or modification of this Agreement and/or any written notice or communication in connection with this Agreement may be delivered to the Seller in care of the Listing REALTOR® and the Buyer in care of the Selling REALTOR® via electronic mail or by facsimile via the contact information set forth above. Any such communication shall be deemed delivered at the time it is sent or transmitted. Seller represents and warrants that an electronic email address has been provided to Listing REALTOR® from which Seller may receive electronic mail. Buyer represents and warrants that an electronic email address has been provided to Selling REALTOR® from which Buyer may receive electronic mail. The parties agree that the electronic signatures and initials shall be deemed to be valid and binding upon the parties as if the original signatures or initials were present in the documents in the handwriting of each party.
- 24. **COUNTERPARTS:** This Agreement may be signed in any number of counterparts with the same effect as if the signature of each counterpart were upon the same instrument.
- 25. **HEIRS, SUCCESSORS AND ASSIGNS:** This Agreement binds Seller, Seller's personal representatives and heirs, and anyone succeeding to Seller's interest in the property. Buyer shall not assign this Agreement without Seller's prior written permission.
- 26. **OTHER CONDITIONS:** City taxes shall be prorated on a due date basis as if paid in advance so that Seller will be charged with the portion thereof from the prior July 1 to date of closing and Purchaser with the portion from the date of closing to the next June 30th.
- 27. **THIS OFFER WILL EXPIRE ON** April 28, 2017 at 9  A.M.  P.M., or upon Seller's receipt of revocation from buyer, whichever is earlier.
- 28. **RECEIPT IS ACKNOWLEDGED BY BUYER** of a copy of this Agreement.

(X)

[Handwritten Signature] \_\_\_\_\_  
 Buyer Signature

Rectory Realty LLC \_\_\_\_\_  
 Print Name

BUYER'S ADDRESS: P.O. Box 577, Gaylord, mi 49734

Deposit in the form of  Personal Check  Other \_\_\_\_\_  
 received by Pat & Brian Goebel  
 Selling Broker/REALTOR®



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## Disclosure Regarding Real Estate Agency Relationships

Before you disclose confidential information to a real estate licensee regarding a real estate transaction, you should understand what type of agency relationship you have with that licensee. A real estate transaction is a transaction involving the sale or lease of any legal or equitable interest in real estate consisting of not less than 1 or not more than 4 residential dwelling units or consisting of a building site for a residential unit on either a lot as defined in section 102 of the land division act, 1967 PA 288, MCL 560.102, or a condominium unit as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104.

- (1) An agent providing services under any service provision agreement owes, at a minimum, the following *duties* to the client:
- (a) The exercise of reasonable care and skill in representing the client and carrying out the responsibilities of the agency relationship.
  - (b) The performance of the terms of the service provision agreement.
  - (c) Loyalty to the interest of the client.
  - (d) Compliance with the laws, rules, and regulations of this state and any applicable federal statutes or regulations.
  - (e) Referral of the client to other licensed professionals for expert advice related to material matters that are not within the expertise of the licensed agent. **A real estate licensee does not act as an attorney, tax advisor, surveyor, appraiser, environmental expert, or structural or mechanical engineer and you should contact professionals on these matters.**
  - (f) An accounting in a timely manner of all money and property received by the agent in which the client has or may have an interest.
  - (g) Confidentiality of all information obtained within the course of the agency relationship, unless disclosed with the client's permission or as provided by law, including the duty not to disclose confidential information to any licensee who is not an agent of the client.

(2) A real estate broker or real estate salesperson acting pursuant to a service provision agreement shall provide the following *services* to his or her client:

- (a) When the real estate broker or real estate salesperson is representing a seller or lessor, the marketing of the client's property in the manner agreed upon in the service provision agreement.
- (b) Acceptance of delivery and presentation of offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease.
- (c) Assistance in developing, communicating, negotiating, and presenting offers, counteroffers, and related documents or notices until a purchase or lease agreement is executed by all parties and all contingencies are satisfied or waived.
- (d) After execution of a purchase agreement by all parties, assistance as necessary to complete the transaction under the terms specified in the purchase agreement.
- (e) For a broker or associate broker who is involved at the closing of a real estate or business opportunity transaction, furnishing, or causing to be furnished, to the buyer and seller, a complete and detailed closing statement signed by the broker or associate broker showing each party all receipts and disbursements affecting that party.

Michigan law requires real estate licensees who are acting as agents of sellers or buyers of real property to advise the potential sellers or buyers with whom they work of the nature of their agency relationship.

### SELLER'S AGENTS

A seller's agent, under a listing agreement with the seller, acts solely on behalf of the seller. A seller can authorize a seller's agent to work with subagents, buyer's agents and/or transaction coordinators. A subagent of the seller is one who has agreed to work with the listing agent, and who, like the listing agent, acts solely on behalf of the seller. Seller's agents and their subagents will disclose to the seller known information about the buyer which may be used to the benefit of the seller.

Individual services may be waived by the seller through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), and (d) above may be waived by the execution of a limited service agreement.

Berkshire Hathaway HomeServices, 715 S Wisconsin Gaylord, MI 49735

Phone: (989)350-8100

Fax:

Patricia Lynch-Goebel

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Ron Kirpatrick



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**BUYER'S AGENTS**

A buyer's agent, under a buyer's agency agreement with the buyer, acts solely on behalf of the buyer. A subagent of the buyer is one who has agreed to work with the buyer's agent with who, like the buyer's agent, acts solely on behalf of the buyer. Buyer's agents and their subagents will disclose to the buyer known information about the seller which may be used to benefit the buyer.

Individual services may be waived by the buyer through execution of a limited service agreement. Only those services set forth in paragraph (2)(b), (c), and (d) above may be waived by the execution of a limited service agreement.

**DUAL AGENTS**

A real estate licensee can be the agent of both the seller and the buyer in a transaction, but only with the knowledge and informed consent, in writing, of both the seller and the buyer.

In such a dual agency situation, the licensee will not be able to disclose all known information to either the seller or the buyer. As a dual agent, the licensee will not be able to provide the full range of fiduciary duties to the seller or the buyer.

The obligations of a dual agent are subject to any specific provisions set forth in any agreement between the dual agent, the seller and the buyer.

**TRANSACTION COORDINATOR**

A transaction coordinator is a licensee who is not acting as an agent of either the seller or the buyer, yet is providing services to complete a real estate transaction. The transaction coordinator is not an agent for either party and therefore owes no fiduciary duty to either party.

**DESIGNATED AGENCY**

A buyer or seller with a designated agency agreement is represented only by agents specifically named in the agreement. Any agents of the firm not named in the agreement do not represent the buyer or seller. The named "designated" agent acts solely on behalf of his or her client and may only share confidential information about the client with the agent's supervisory broker who is also named in the agreement. Other agents in the firm have no duties to the buyer or seller and may act solely on behalf of another party in the transaction.

**LICENSEE DISCLOSURE (Check one)**

I hereby disclose that the agency status of the licensee named below is:

- Seller's agent
- Seller's agent - limited service agreement
- Buyer's agent
- Buyer's agent - limited service agreement
- Dual agent
- Transaction coordinator (A licensee who is not acting as an agent of either the seller or the buyer.)
- None of the above

**AFFILIATED LICENSEE DISCLOSURE (Check one)**

- Check here if acting as a designated agent. Only the licensee's broker and a named supervisor broker have the same agency relationship as the licensee named below. If the other party in a transaction is represented by an affiliated licensee, then the licensee's broker and all named supervisory brokers shall be considered disclosed consensual dual agents.
- Check here if not acting as a designated agent. All affiliated licensees have the same agency relationship as the licensee named below.

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Further, this form was provided to the buyer or seller before disclosure of any confidential information.

*Blynn-Orwell*  
Licensee

4/17/17  
Date

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
Date

**ACKNOWLEDGMENT**

By signing below, the parties acknowledge that they have received and read the information in this agency disclosure statement and acknowledge that this form was provided to them before the disclosure of any confidential information. **THIS IS NOT A CONTRACT.**

The undersigned \_\_\_\_\_ DOES  DOES NOT have an agency relationship with any other real estate licensee. If an agency relationship exists, the undersigned is represented as \_\_\_\_\_ SELLER \_\_\_\_\_ BUYER.

X *Ron Kirpatrick*  
Potential  Buyer  Seller (check one)

\_\_\_\_\_  
Date

X \_\_\_\_\_  
Potential  Buyer  Seller (check one)

\_\_\_\_\_  
Date

**Disclaimer** This form is provided as a service of the Michigan Association of REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The Michigan Association of REALTORS® is not responsible for use or misuse of the form, for misrepresentation, or for warranties made in connection with the form.



LEAD-BASED PAINT SELLER'S DISCLOSURE FORM



Property Address 145 N Otago Gaylord MI 49735  
 Street Gaylord MICHIGAN

**Lead Warning Statement**  
 Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**I. Seller's Disclosure (initial)**  
 (a) Presence of lead-based paint and/or lead-based paint hazards (check one below):  
 Known lead-based paint and/or lead-based paint hazards are present in the housing (explain) \_\_\_\_\_  
 Seller has no knowledge of lead based paint and/or lead-based paint hazards in the housing  
 (b) Records and reports available to the seller (check one below):  
 Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below) \_\_\_\_\_  
 Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.  
 Seller certifies that to the best of his/her knowledge, the Seller's statements above are true and accurate.  
 Date: \_\_\_\_\_ Seller: A

**II. Agent's Acknowledgment (initial)**  
 Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.  
 Agent certifies that to the best of his/her knowledge, the Agent's statement above is true and accurate.  
 Date: 4/17/17 Agent: [Signature]

**III. Purchaser's Acknowledgment (initial)**  
 (a) Purchaser has received copies of all information listed above.  
 (b) Purchaser has received the federally approved pamphlet *Protect Your Family From Lead In Your Home*  
 (c) Purchaser has (check one below):  
 Received a 10-day opportunity (or other mutually agreed upon period) to conduct a risk assessment or inspection of the presence of lead-based paint or lead-based paint hazards; or  
 Waived the opportunity to conduct a risk assessment or inspection for the presence of lead based paint and/or lead based paint hazards.  
 Purchaser certifies to the best of his/her knowledge, the Purchaser's statements above are true and accurate.  
 Date: 4-19-17 Purchaser: [Signature]

FORM L-3, ©1996 Michigan Association of REALTORS®, 10/96

Warkshire Hathaway HomeServices 715 S Wisconsin Gaylord, MI 49735  
 Phone (989)350-8100 Fax Patricia Lynch-Giebel Shirley McJure  
 Produced with zifForm9 by zPLoq 18070 Fifteen Mile Road, Fraser Michigan 48026 www.ziploq.com



Seller's Disclosure Statement

H

Property Address: 93 Invitational Dr Gaylord MICHIGAN  
Street City Village or Township

**Purpose of Statement:** This statement is a disclosure of the condition of the property in compliance with the Seller Disclosure Act. This statement is a disclosure of the condition and information concerning the property, known by the Seller. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction, and is not a substitution for any inspections or warranties the Buyer may wish to obtain.

**Seller's Disclosure:** The Seller discloses the following information with the knowledge that even though this is not a warranty, the Seller specifically makes the following representations based on the Seller's knowledge at the signing of this document. Upon receiving this statement from the Seller, the Seller's Agent is required to provide a copy to the Buyer or the Agent of the Buyer. The Seller authorizes its Agent(s) to provide a copy of this statement to any prospective Buyer in connection with any actual or anticipated sale of property. The following are representations made solely by the Seller and are not the representations of the Seller's Agent(s), if any. THIS INFORMATION IS A DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY CONTRACT BETWEEN BUYER AND SELLER.

**Instructions to the Seller:** (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Attach additional pages with your signature if additional space is required. (4) Complete this form yourself. (5) If some items do not apply to your property, check NOT AVAILABLE. If you do not know the facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT.

**Appliances/Systems/Services:** The items below are in working order. (The items listed below are included in the sale of the property only if the purchase agreement so provides.)

	Yes	No	Unknown	Not Available		Yes	No	Unknown	Not Available
Range/oven					Lawn sprinkler system				
Dishwasher					Water heater				
Refrigerator					Plumbing system				
Hood/fan					Water softener/conditioner				
Disposal					Well & pump				
TV antenna, TV tower & controls					Septic tank & drain field				
Electric system					Sump pump				
Garage door opener & remote control					City water system				
Alarm system					City sewer system				
Intercom					Central air conditioning				
Central vacuum					Central heating system				
Attic fan					Wall furnace				
Pool heater, wall liner & equipment					Humidifier				
Microwave					Electronic air filter				
Trash compactor					Solar heating system				
Ceiling fan					Fireplace & chimney				
Sauna/hot tub					Wood burning system				
Washer					Dryer				

Explanations (attach additional sheets, if necessary)

UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

**Property conditions, Improvements & additional information:**

- Basement/Crawlspace: Has there been evidence of water? yes \_\_\_\_\_ no \_\_\_\_\_  
 If yes, please explain: \_\_\_\_\_
- Insulation: Describe, if known. unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 Urea Formaldhyde Foam insulation, if RFI is installed? \_\_\_\_\_
- Roof: Leaks? yes \_\_\_\_\_ no \_\_\_\_\_  
 Approximate age, if known \_\_\_\_\_
- Well: Type of well (captive/groundwater) age and repair history, if known. yes \_\_\_\_\_ no \_\_\_\_\_  
 Has the water been tested? \_\_\_\_\_  
 If yes, date of last repair/results: \_\_\_\_\_

PAGE 1 OF 2

BUYER'S INITIALS [Signature]  
 SELLER'S INITIALS [Signature]

FORM H JUN/08

Herkshire Hathaway HomeCare 315 S. Wisconsin Gaylord, MI 49735  
 Phone: 889-732-9555 Fax: 889-732-5751 Brian Griebel 93 Invitational Dr  
 Produced with eForm® by HRC/HK 19070 Fifteen Mile Road, Fraser, Michigan 48026 www.hrc.com

Seller's Disclosure Statement

Property Address: 93 Invitational Dr Gaylord MICHIGAN  
 Street City Village or Township

5 Septic tank/sewer fields: Condition, if known \_\_\_\_\_  
 6 Heating system: Type/approximate age \_\_\_\_\_  
 7 Plumbing system: Type: copper \_\_\_\_\_ galvanized \_\_\_\_\_ other \_\_\_\_\_  
 Any visible problems? \_\_\_\_\_  
 8 Electrical system: Any known problems? \_\_\_\_\_  
 9 History of infestation, if any: termites, carpenter ants, etc. \_\_\_\_\_  
 10 Environmental problems: Are you aware of any substances, materials or products that may be an environmental hazard such as, but not limited to, asbestos, radon gas, formaldehyde, lead based paint, fuel or chemical storage tanks and contaminated soil on property?  
 unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 If yes, please explain \_\_\_\_\_  
 11 Flood insurance: Do you have flood insurance on the property? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 12 Mineral Rights: Do you own the mineral rights? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

Other Items: Are you aware of any of the following:  
 1 E portions of the property shared in common with the adjoining landowners such as walls, fences, roads and driveways, or other features whose use or responsibility for maintenance may have an effect on the property? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 2 Any encroachments, easements, zoning violations or nonconforming uses? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 3 Any common areas (backyards, tennis courts, walkways or other areas not owned with others) or a homeowners association that has any authority over the property? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 4 Structural modifications, alterations or repairs made without necessary permits or licensed contractors? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 5 Settling, flooding, drainage, structural or grading problems? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 6 Major damage to the property from fire, wind, floods, or landslides? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 7 Any underground storage tanks? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 8 Farm or farm operation in the vicinity, or proximity to a landfill, airport, staging range, etc.? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 9 Any outstanding utility assessments or fees, including any natural gas main extension surcharge? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 10. Any outstanding municipal assessments or fees? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_  
 11. Any pending litigation that could affect the property or the Seller's right to convey the property? unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

If the answer to any of these questions is yes, please explain. Attach additional sheets, if necessary. See Addendum #1

The Seller has lived in the residence on the property from \_\_\_\_\_ (date) to \_\_\_\_\_ (date).  
 The Seller has owned the property since \_\_\_\_\_ (date).  
 The Seller has indicated above the condition of all the items based on information known to the Seller. If any changes occur in the structural/mechanical/appliance systems of this property from the date of this form to the date of closing, Seller will immediately disclose the changes to Buyer. In no event shall the parties hold the Broker liable for any representations not directly made by the Broker or Broker's Agent.

Seller certifies that the information in this statement is true and correct to the best of Seller's knowledge as of the date of Seller's signature.  
 BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY. THESE INSPECTIONS SHOULD TAKE INDOOR AIR AND WATER QUALITY INTO ACCOUNT, AS WELL AS ANY EVIDENCE OF UNUSUALLY HIGH LEVELS OF POTENTIAL ALLERGENS INCLUDING BUT NOT LIMITED TO HOUSEHOLD MOLD, MILDEW AND BACTERIA.  
 BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732 IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING SUCH INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY OR SHERIFF'S DEPARTMENT DIRECTLY.

BUYER IS ADVISED THAT THE STATE EQUALIZED VALUE OF THE PROPERTY, PRINCIPAL RESIDENCE EXEMPTION INFORMATION, AND OTHER REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE APPROPRIATE LOCAL ASSESSOR'S OFFICE. BUYER SHOULD NOT ASSUME THAT BUYER'S FUTURE TAX BILLS ON THE PROPERTY WILL BE THE SAME AS THE SELLER'S PRESENT TAX BILLS. UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.

Seller: [Signature] Date: 4/14/17  
 Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer has read and acknowledges receipt of this statement.  
 Buyer: [Signature] Date: 4-19-17 Time: \_\_\_\_\_  
 Buyer: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Disclaimer: This form is provided as a service of the Michigan Association of REALTORS®. Please review both the form and details of the particular transaction to ensure that each section is appropriate for the transaction. The Michigan Association of REALTORS® is not responsible for use or misuse of form for misrepresentation or for warranties made in connection with the form.

**Servpro of Gaylord and Cheboygan**

---

P.O. Box 1821  
Gaylord, MI 49734  
(989)705-2400  
(989)705-2240 Fax  
Tax I.D. 38-3562140

Insured: McClure, Shirley Home: (213) 725-6329  
Property: 145 N. Otsego Ave Tenant-Dawn : (256) 665-2674  
Gaylord, MI 49735  
Billing: 1801 Century Park East Suite 700  
Los Angeles, CA 90067

**Claim Number:** **Policy Number:** **Type of Loss:**

Date of Loss: Date Received:  
Date Inspected: Date Entered: 9/16/2016 3:54 PM

Price List: MIGA8X\_SEP16  
Restoration/Service/Remodel  
Estimate: MCCLURE-SEWAGE

X Buyer (Komputer)

X 4-19-17

Date

X  
Buyer

1-3

**Servpro of Gaylord and Cheboygan**

P.O. Box 1821  
 Gaylord, MI 49734  
 (989)705-2400  
 (989)705-2240 Fax  
 Tax I.D. 38-3562140

**MCCLURE-SEWAGE**

DESCRIPTION	QTY	RESET	REMOVE	REPLACE	TAX	TOTAL
20. Emergency service call - during business hours	1.00 EA		0.00	112.61	0.00	112.61
22. Add for personal protective equipment - Heavy duty	2.00 EA		0.00	17.75	2.13	37.63
23. Content Manipulation charge - per hour	2.00 HR		0.00	31.59	0.00	63.18
25. Detach & Reset Washer/Washing Machine - Top-loading	1.00 EA	25.98	0.00	0.00	0.00	25.98
27. Detach & Reset Dryer - Gas	1.00 EA	72.53	0.00	0.00	0.00	72.53
28. Clean water heater	1.00 EA		0.00	14.68	0.01	14.69
30. Clean washer - exterior	1.00 EA		0.00	6.19	0.01	6.20
31. Clean dryer - exterior	1.00 EA		0.00	6.33	0.01	6.34
32. Water extraction from hard surface floor - Cat 3 water	176.00 SF		0.00	0.65	0.00	114.40
33. Apply plant-based anti-microbial agent	336.00 SF		0.00	0.19	0.81	64.65
39. Tear out non-salvageable vinyl, cut & bag for disposal	100.00 SF		0.95	0.00	0.42	95.42
34. Clean the surface area with pressure steam	176.00 SF		0.00	0.65	1.69	116.09
35. Water Extraction & Remediation Technician - per hour	1.00 HR		0.00	38.50	0.00	38.50
This is labor to handwipe content items and the steps.						
36. Water Extraction & Remediation Technician - per hour	1.00 HR		0.00	38.50	0.00	38.50
37. Air mover (per 24 hour period) - No monitoring	3.00 EA		0.00	25.56	0.00	76.68
38. Equipment setup, take down, and monitoring (hourly charge)	1.00 HR		0.00	38.50	0.00	38.50
Equipment pick up.						
<b>Totals: Basement Laundry</b>					5.08	921.90
<b>Line Item Totals: MCCLURE-SEWAGE</b>					5.08	921.90

*Handwritten signature*  
 4-19-17  
 Date

MCCLURE-SEWAGE

9/22/2016

Page: 2

2-3

**Servpro of Gaylord and Cheboygan**

---

P.O. Box 1821  
Gaylord, MI 49734  
(989)705-2400  
(989)705-2240 Fax  
Tax I.D. 38-3562140

Coverage	Item Total	%	ACV Total	%
Dwelling	909.36	98.64%	909.36	98.64%
Other Structures	0.00	0.00%	0.00	0.00%
Contents	12.54	1.36%	12.54	1.36%
Total	921.90	100.00%	921.90	100.00%

David J. Cooper

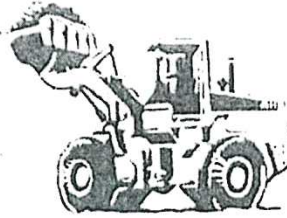
Buyer

4-19-17  
Date

(3-3)



NORTH CENTRAL EXCAVATING  
TRUCKING & MASONRY, INC.  
PO BOX 415 - GAYLORD, MI 49734  
1 989 732-2125 FAX 1 989-732 3745  
OVER 35 YEARS OF SERVICES



**Proposal 16-691**

Client: Shirley McClure  
Attn:  
Project: Sewer line repair  
Location: 145 N. Otsego. Gaylord, Michigan

Date: 09-09-16

Site work: Saw-cut and remove 5'x 20' of brick paved sidewalk. Strip topsoil. Excavate down to existing sanitary lead 10' west of blockage and continue easterly towards iron fence. Install 50' of 4" pvc piping and connect to existing, both ends. Backfill and compact trench. Replace 100 sft of sidewalk. Import and place screened topsoil, reseed disturbed areas.

Amount: \$ 5,900.00

Note: Proposal based on no utility conflicts and limited site demolition. Work to be done on a T&M basis. Quote to be for budget purposes only using worst case scenario if concrete has to be removed. Includes previous sanitary camera location service and 1- future location with jet rodding pipe to property line.

Rick Townsend Operations Manager

Date:

Quote Valid for 15 days from date of signature above.

Acceptance: The above prices, specifications and conditions are satisfactory, the undersigned hereby authorizes North Central Excavating, Trucking and Masonry, Inc to perform the above noted work and agrees to the terms and conditions set forth. Payment net 15 days to be made after completion.

Acceptance : 9/12/16

Signature : John Restman as Trustee

Name/Title : John Restman, Trustee of The Chapter 11 Bankruptcy Estate of Shirley Foose McClure

Paul J. [Signature]  
Buyers

X 4-19-17  
Date

ADDENDUM TO LISTING CONTRACT

93 Invitational Dr., Gaylord, MI 49735

This ADDENDUM is to be part of and incorporated into a Listing contract between BERKSHIRE HATHAWAY HOME SERVICES as Listing Realtor/Broker and John Reitman Trustee for Shirley McClure as Seller, Dated December 23, 2016, regarding the above captioned Property.

Addendum #1

The Changes listed below are made part of the listing agreement.

Paragraph 4

"SELLER AND BROKERS AND AGENTS HAVE NOT AND WILL NOT DETERMINE THE CONDITION OR FITNESS FOR USE FOR USE OF THE PROPERTY FOR ANY PARTICULAR PURPOSE. THE SALE SHALL BE "AS IS," "WHERE IS," "WITH ALL FAULTS," AND WITH NO REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OR RECOURSE WHATSOEVER, EXCEPT THAT THE SELLER WILL CONVEY TITLE BY A WARRANTY DEED, FREE AND CLEAR OF ALL MONETARY LIENS CLAIMS, AND ENCUMBRANCES OF RECORD PURSUANT TO A BANKRUPTCY COURT ORDER."

Paragraph 5

Brokerage Firm shall identify to Seller all persons it introduces to the Property. FURTHER, if within 6 months after the expiration of this agreement, Seller sells, trades or exchanges the Property to anyone introduced to the Property during the term of this Exclusive Listing Contract, the stated compensation will be paid by Seller to Brokerage Firm, unless at the time of the sale, the Property is listed with any other realtor, in which case no compensation will be paid by Seller to Brokerage Firm. It is also agreed that in the event of a trade or exchange, Brokerage Firm is authorized to represent and receive compensation from both parties to the transaction, but in no event shall such compensation exceed 7% of the sale price.

Paragraph 21

"Seller is informed and believes that this division has been approved by local municipality."

(X)

Buyers Initials *RJK*  
Sellers Initials *J*

Paragraph 27

"The bankruptcy court in which the McClure bankruptcy case is pending shall have exclusive jurisdiction to resolve any and all disputes regarding sale of the property. For that purpose the parties each waives any and all right to a trial by jury."

And

"SALE OF THE PROPERTY IS SUBJECT TO THE APPROVAL OF THE BANKRUPTCY COURT, AFTER NOTICE THEREOF AND AN OPPORTUNITY FOR ANY INTERESTED PARTY TO OBJECT, AND IS SUBJECT TO OVERBID AT THE HEARING TO APPROVE THE SALE."


Seller's Acknowledgement/Lead Based Paint disclosure as follows:

"Seller is informed and believes that the listed property was built in 1978 or later, and that therefore, the federally-mandated lead-based paint disclosure regulations do not apply to this property.

SELLERS DISCLOSURE

"INFORMATION IS NOT KNOWN TO SELLER. SELLER IS A BANKRUPTCY ESTATE. BANKRUPTCY TRUSTEE HAS NO KNOWLEDGE WHATSOEVER CONCERNING THE PROPERTY'S CONSTRUCTION, CONDITION, IMPROVEMENTS, SYSTEMS, APPLIANCES, REPAIR HISTORY, AGE, HABITABILITY OR SUITABILITY. SALE OF THE PROPERTY IS SUBJECT TO THE APPROVAL OF THE BANKRUPTCY COURT, AFTER NOTICE THEREOF AND AN OPPORTUNITY FOR ANY INTERESTED PARTY TO OBJECT, AND IS SUBJECT TO OVERBID AT THE HEARING TO APPROVE THE SALE."

Listed by   
Agent


, Trustee  
Seller

Brian & Pat Goebel  
Agent for   
Berkshire Hathaway HomeServices

John Reitman Ch 11 Bankruptcy Trustee for  
Shirley McClure

Date 4/17/17

Date 4/4/17

(x)   
(x) Buyer

4-19-17  
Date

# JP Heating of Northern Michigan, LLC

1830 Dickerson Road • P.O. Box 459, Gaylord, MI 49734  
 Phone 989-732-7571 • Fax 989-732-3642 • www.jpheating.com

**SERVICE ORDER**  
**INVOICE**  
**24062**

ITEMS CHECKED		BILL TO:	TECHNICIAN	DATE																																																			
EFF TEST		NAME <i>Russ Suter</i>	<i>Tom Steve</i>	<i>8-8-11</i>																																																			
BURNER MOTOR (Amps)		STREET <del>XXXXXXXXXXXX</del>	LOCATION 145 N Otsego Gaylord MI																																																				
BLOWER MOTOR (Amps)		CITY <del>XXXXXXXXXX</del>																																																					
TRANSFORMER (Amps)		PHONE <del>XXXXXXXXXX</del>																																																					
HT. EXCH.																																																							
FAN CONTROL		<input type="checkbox"/> CASH <input type="checkbox"/> CREDIT CARD <input type="checkbox"/> SERVICE CONTRACT <input type="checkbox"/> WARRANTY <input type="checkbox"/> CHECK <input type="checkbox"/> CHARGE <input type="checkbox"/> QUOTE																																																					
LIMIT CONTROL		<table border="1"> <thead> <tr> <th>DESCRIPTION OF WORK</th> <th>QTY</th> <th>MATERIALS</th> <th>PRICE</th> </tr> </thead> <tbody> <tr> <td>start up of existing boiler system</td> <td>15hr</td> <td>Service charge</td> <td>79 00</td> </tr> <tr> <td></td> <td></td> <td>1/4 pipe tube</td> <td>15 00</td> </tr> <tr> <td></td> <td></td> <td>5 gal anti-freeze</td> <td>125 00</td> </tr> <tr> <td>Found system low on anti freeze</td> <td></td> <td>Shirley McClure</td> <td></td> </tr> <tr> <td>added 5 gal Antifreeze and 5 gal water</td> <td></td> <td>PO Box 2497</td> <td></td> </tr> <tr> <td>purged out air and cycled system</td> <td></td> <td>3401 Gregory Avenue</td> <td></td> </tr> <tr> <td></td> <td></td> <td>Fullerton CA 92833-2527</td> <td></td> </tr> <tr> <td>also added ice maker line</td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="2"></td> <td colspan="2">TOTAL MATERIALS</td> <td></td> </tr> <tr> <td colspan="2"></td> <td colspan="2">TOTAL LABOR</td> <td>220 00</td> </tr> <tr> <td colspan="2"></td> <td colspan="2">TOTAL AMOUNT DUE</td> <td>439 00</td> </tr> </tbody> </table>			DESCRIPTION OF WORK	QTY	MATERIALS	PRICE	start up of existing boiler system	15hr	Service charge	79 00			1/4 pipe tube	15 00			5 gal anti-freeze	125 00	Found system low on anti freeze		Shirley McClure		added 5 gal Antifreeze and 5 gal water		PO Box 2497		purged out air and cycled system		3401 Gregory Avenue				Fullerton CA 92833-2527		also added ice maker line						TOTAL MATERIALS					TOTAL LABOR		220 00			TOTAL AMOUNT DUE		439 00
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**PARTS WARRANTY** All parts as recorded are warranted as per manufacturer specifications.  
**LABOR GUARANTY** The labor charge as recorded here relative to the equipment serviced as noted, is guaranteed for a period of 30 days. We do not, of course, guaranty other parts than those we install if repairs later become necessary due to other defective parts, they will be charged separately.

**X** TERMS: Amount due upon completion unless arrangements made prior to service work

*Boyer [Signature]* Date 4-19-17

**Addendum 1**

Addendum to contract dated April 24, 2017

between John Reitsman Ch 11 Bankruptcy (hereinafter "Seller")

and Rectory Realty LLC (hereinafter "Buyer")

Property Address 145 N Otsego Ave, Gaylord, MI 49735-1474

1. Sale is subject to tenants rights. Tenants lease runs through August. Occupancy to be after tenant vacates property.
  2. Appliances are not included in the sale. All fixtures are included in the sale. All built in appliances are included in the sale.
  3. Earnest Money Deposit to be \$25,000.00.
  4. Buyer to provide Proof of Funds.
  5. Sale is subject to Bankruptcy court foreclosure guidelines/proceedings and overbid.
  6. Sale to be completed 30 days after the final court order approving the sale
  7. Furnace does not work properly.
  8. Buyer to respond by 5/3/2017 5PM.
  9. Trustee to file motion for final court order approving the sale no later than May 12, 2017.
- All other terms and conditions remain the same.

*Ronald J. Kirkpatrick* 05-02-2017  
 Buyer Rectory Realty LLC Date  
 MEMBER: RONALD J. KIRKPATRICK

*John Reitsman, Trustee* 5/2/17  
 Seller John Reitsman Ch 11 Bankruptcy Date

Buyer \_\_\_\_\_ Date \_\_\_\_\_

Seller \_\_\_\_\_ Date \_\_\_\_\_

Berkshire Hathaway HomeS, 715 S. Wisconsin Gaylord, MI 49735  
 Phone: 989-732-9555 Fax: 989-732-5751 Brian Goebel

145 N. Otsego

Produced with ZipForm™ by RE FormsNet, LLC 16070 Fifteen Mile Road, Fraser, Michigan 48028 [www.zipform.com](http://www.zipform.com)

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**LANDAU GOTTFRIED & BERGER LLP, 1801 Century Park East, Suite 700, Los Angeles, CA 90067.**

A true and correct copy of the foregoing document entitled (*specify*): **Motion of John P. Reitman, Chapter 11 Trustee, for Entry of an Order Authorizing Sale of 145 North Otsego Drive, Gaylord, MI 49735 Free and Clear of Liens, Claims and Interests; Declaration of John P. Reitman in Support Thereof** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **May 12, 2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) **May 12, 2017** I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Honorable Geraldine Mund  
U.S. Bankruptcy Court  
San Fernando Valley Division  
21041 Burbank Boulevard  
Woodland Hills, CA 91367

Shirley Foose McClure  
PO Box 2497  
Fullerton, CA 92837

Lester Crawford  
Office of The United States Trustee  
915 Wilshire Blvd., Suite 1850  
Los Angeles, CA 90017

Otsego County Treasurer Diane  
Axford  
225 W Main St Rm 107  
Gaylord, MI 49735

Robert M Scholnick  
17422 Chatsworth Street  
Granada Hills, CA 91344

Glassratner Advisor & Capital Group  
19800 MacArthur Blvd Ste 820  
Irvine, CA 92612

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

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

May 12, 2017  
Date

Michael Mocciano  
Printed Name

Signature



This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) (continued):**

- Sean D Allen sda@sghoalaw.com
- Jason Balitzer jbalitzer@sulmeyerlaw.com,  
jbalitzer@ecf.inforuptcy.com;dwalker@ecf.inforuptcy.com;slee@sulmeyerlaw.com
- Jon L Dalberg jdalberg@lgbfirm.com,  
kalandy@lgbfirm.com;srichmond@lgbfirm.com;cboyias@lgbfirm.com;mmocciaro@lgbfirm.com
- Aaron E De Leest aed@dgd.com, DanningGill@gmail.com;adeleest@ecf.inforuptcy.com
- Wendy Yvonne Duncan wendy.duncan@shellpointmtg.com, mtgbk@shellpointmtg.com
- James R Felton jfelton@greenbass.com, mtyndall@greenbass.com;ecfnotification@greenbass.com
- Brian D Fittipaldi brian.fittipaldi@usdoj.gov
- Barry S Glaser bglaser@swesq.com, erhee@swesq.com
- Andrew Goodman agoodman@andyglaw.com
- Yi S Kim ykim@greenbass.com, ksopky@greenbass.com;ecfnotification@greenbass.com
- Yi S Kim ykim@greenbass.com, ksopky@greenbass.com;ecfnotification@greenbass.com
- Dare Law dare.law@usdoj.gov
- Carissa A Lynch Carissa.Lynch@ftb.ca.gov, Martha.Gehrig@ftb.ca.gov
- David J McCarty dmccarty@sheppardmullin.com, nparker@sheppardmullin.com
- Reed M Mercado rmercado@sheppardmullin.com
- Lisa Nelson lnelson@taylorlaw.com, ltaylor@taylorlaw.com
- Faye C Rasch frasch@wgllp.com, kadele@wgllp.com;tziemann@wgllp.com
- John P Reitman jreitman@lgbfirm.com,  
kalandy@lgbfirm.com;cboyias@lgbfirm.com;srichmond@lgbfirm.com;mmocciaro@lgbfirm.com
- Todd C. Ringstad becky@ringstadlaw.com
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