

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

In re: ) Chapter: 11  
)  
) Case No. 13-80740  
Steve and Celeste Murphy, )  
) Judge: Hon. Thomas M. Lynch  
)  
)  
Debtors. )

**NOTICE OF MOTION**

TO: See attached Service List

Please take notice that on August 10, 2016 at 10:30 a.m., I shall appear before the Honorable Judge Thomas M. Lynch, or any judge sitting in his place and stead, in Courtroom No. 3100 in the United States Bankruptcy Court, for the Northern District of Illinois, Western Division, located at 327 South Church St., Rockford, Illinois, and present Debtor’s Motion For Orders Authorizing The Sale of 7 LLC Membership Interests Free And Clear Of All Liens, Claims And Encumbrances, and to Shorten Notice to That Given, a copy of which is hereby served upon you.

Michael J. Davis  
**BKN Murray LLP**  
1500 Eisenhower Lane, Suite 800  
Lisle, Illinois 60532  
630-915-3999

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, hereby state that pursuant to the Administrative Procedures for the Case Management/Electronic Case Filing System, I caused a copy of the foregoing NOTICE OF MOTION and MOTION to be served on all persons set forth on the attached Service List identified as Registrants through the Court’s Electronic Notice for Registrants and, as to all other persons on the attached Service List by mailing a copy of same in an envelope properly addressed and with postage fully prepaid and by depositing same in the U.S. Mail, Wheaton, Illinois on July 28, 2016.

/s/ Michael J. Davis /s/

Service List

Via Electronic Service

Michael G. Schultz, Esq.  
Jack D. Ward, Esq.  
Jamie Cassell Esq.  
Reno & Zahm LLP  
2902 McFarland Road, Suite 400  
Rockford, IL 61107-6801

Patrick S. Layng  
Office of the US Debtor, Region 11  
780 Regent St.  
Suite 304  
Madison, WI 53715-2635

Thomas P. Sandquist  
Scott Sullivan  
Williams McCarthy LLP  
120 W. State Street #400  
Rockford, IL 61101 )  
tsandquist@wilmac.com

Via U.S. Mail

Steve and Celeste Murphy  
1919 N. Mulford Road  
Rockford, IL 61107-2544

Associated Bank  
2870 Holmgren Way  
Green Bay, WI 54304

Blackhawk State Bank  
c/o Matthew M. Hevrin  
Hinshaw & Culbertson LLP  
100 Park Avenue  
Rockford, IL 61101

Citibank  
PO Box 6500  
Sioux Falls, SD 57117

First National Bank & Trust Co.  
Jeff Orduno  
127 N. Wyman St., 2nd Flr  
Rockford, IL 61101

Elan Financial Services as Servicer for the  
First National Bank and Trust  
Bankruptcy Department  
PO Box 5229  
Cincinnati, OH 45201-5229

JP Morgan Chase Bank  
PO Box 29505  
Phoenix, AZ 85038-9505

Hinsdale Bank and Trust  
25 E. First Street  
Hinsdale, IL 60521

Michael Kelly  
United States Attorney's Office  
Northern District of Illinois, Eastern Division  
219 S. Dearborn St., 5th Floor  
Chicago, IL 60604

IRS  
Department of the Treasury  
PO box 7346  
Philadelphia, PA 19101-7346

GE Capital Retail Bank  
c/o Recovery Management Systems Corp  
25 SE 2<sup>nd</sup> Ave. Suite 1120  
Miami, FL 33131-1605

Capital One, N.A.  
PO box 12907  
Norfolk, VA 23541-0907

Northwest Bank of Rockford  
Attorney: Timothy F Horning  
3400 N. Rockton Ave.  
Rockford, IL 61103

Rockford Bank and Trust  
4571 Guilford Rd.  
Rockford, IL 61107

Winnebago County Treasurer  
PO box 1216  
Rockford, IL 61105

M.J.Goldman & Company, Ltd  
1999 John's Drive  
Glenview, IL 60025

Cadles of Grassy Meadows II, L.L.C.  
100 North Center Street  
Newton Falls, OH 44444

Wisconsin Department of Revenue  
Special Procedures Unit  
POB 8901  
Madison, WI 53708-8901

Portfolio Recovery Associates,LLC  
PO Box 41067  
Norfolk, Va 23541

Nevard Investments LLC  
1109 Oak Lane  
Western Springs, Il 60558

James Siegfried Trust  
2554 Charles Street  
Rockford, Il 61108

Albert Ciardi  
One Commerce Square  
2005 Market Street, St. 3500  
Philadelphia, Pa. 19103

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

<b>In re:</b>	)	<b>Chapter:</b>	<b>11</b>
	)		
	)	<b>Case No.</b>	<b>13-80740</b>
<b>Steve and Celeste Murphy,</b>	)		
	)	<b>Judge:</b>	<b>Hon. Thomas M. Lynch</b>
	)		
<b>Debtors.</b>	)		

**DEBTOR’S MOTION FOR AN ORDER AUTHORIZING THE SALE OF 7 LLC  
MEMBERSHIP INTERESTS FREE AND CLEAR OF ALL LIENS, CLAIMS AND  
ENCUMBRANCES AND TO SHORTEN NOTICE TO THAT GIVEN**

Steven and Celeste Murphy (the “**Debtor**”), by and through their attorney, Michael J. Davis of BKN Murray LLP, pursuant to section 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), moves the Court for an order authorizing the sale of the Debtor’s Interests in 7 LLC’s free and clear of all liens, claims, and encumbrances and to shorten notice to that given, in support thereof, states as follows:

**Background**

1. This case was commenced on March 7, 2013 when the Debtors filed a voluntary petition under Chapter 11 of the Bankruptcy Code. No trustee has been appointed.
2. The Debtors have continued to manage their business and assets and to administer the affairs of its estate as debtors in possession in accordance with 11 U.S.C. §§ 1107 and 1108.
3. The Debtor has received the Offer to Purchase attached hereto as Exhibit A (the “**Offer to Purchase**”) from Wayne Erickson (the “**Buyer**”) for the purchase of 7 of the Debtor’s Membership Interests (the “**Membership Interests**”) enumerated in Exhibit B attached hereto.
4. This is a core proceeding over which this Court has jurisdiction under 28 U.S.C. §§ 157(b)(2)(A), (O) and 1334. Venue is proper pursuant to 28 U.S.C. § 1409.

**Proposed Sale**

5. Among the assets of the Estate are the Membership Interests in which the Debtor owns a minority interest.

6. Pursuant to a Joint Stipulation Regarding Sale Of Membership Interests (the "Joint Stipulation") entered into between the other Members of the Membership Interests (the "NDM's") and the Debtor, the Debtor was permitted to market Membership Interests for a period of six months from January 1, 2016 subject to a right of first refusal by the other Members. The marketing period resulted in the sale of 23 of the Debtors Membership Interests, leaving seven of the Debtors Membership interests remaining.

7. Because of limitations in the Operating Agreements and the lapse of the period in which the Joint Stipulation allowed the marketing of the Membership Interests, only the NDM's may purchase the 7 remaining Membership Interests in which the Debtor has a minority interest.

8. The Debtors Membership Interests are subject to an alleged pre-petition lien filed by the Internal Revenue Service in the amount of \$4,436,376.43. See Proof of Claim No. 4-2 attached hereto as Exhibit C.

9. Subject to Court approval, the Debtor proposes to sell the Membership Interests to Buyer for the purchase price of \$1,837,500 upon order of this Court approving such sale pursuant to the terms of the Offer to Purchase.

10. The Membership Interests will be conveyed to Buyer pursuant to the Offer to Purchase and pursuant to the terms of the Operating Agreements.

**Background**

**Argument**

A. Approval of the Sale is Appropriate

11. Pursuant to section 363(b) of the Bankruptcy Code, the Debtor is authorized to sell property of the estate. The sale of the Membership Interests will benefit the Estate and is in the best interest of the Estate and its creditors.

B. The Sale Satisfies the Requirements of Section 363(f)

12. The Debtor submits that a sale free and clear of all liens, security interests, claims, charges, options and interests thereon and there against (collectively, the “**Interests**”) is appropriate under the circumstances because any Interest that may be asserted against the Membership Interests will be subject to a bona fide dispute if the Debtor has not scheduled any such Interest and the Debtor is not otherwise aware of any such valid Interest against the Membership Interest. *See* 11 U.S.C. § 363(f).

13. The Sale to the Buyer will provide substantial value for the Membership Interests and the offer is the only offer that can be made for these interests given the restrictions in the Operating Agreements.

14. The sale to Buyer, if approved by the Court, will be in the best interest of the estate, and will be made for a sound business purpose, *to wit*:

- a. The Debtor believes that a sale of the Membership Interests will be in the best interest of the Debtor’s Estate in that the proceeds will be sufficient to satisfy all the claims of creditors and administrative claims immediately upon confirmation of a Plan.
- b. The Debtor believes that the proposed sale would provide a fair and reasonable means of obtaining the greatest return on the Membership Interests, if not the only possible return due ot the restrictions in the Membership Operating Agreements..

C. Abrogation of the Fourteen-Day Stay

15. Bankruptcy Rule 6004(h) provides, “An order authorizing the use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). The Debtor submits that, given the nature of the proposed sale, the Buyer’s desire to close quickly upon entry of an order approving the sale and the necessity to maintain the purchase price calculation because of the proration of distributions, cause exists for the Court to exercise its discretion and abrogate the 14-day stay provided for by Rule 6004(h).

D. Sale Free and Clear of Liens, Claims and Encumbrances

16. Section 363(b) of the Bankruptcy Code provides that a debtor in possession “may use, sell, or lease, other than in the ordinary course of business, property of the estate.” *See* 11 U.S.C. § 363(b). Section 363(f) of the Bankruptcy Code provides that a debtor in possession may sell property under section 363(b) free and clear of any interest in such property of an entity other than the estate upon certain conditions. *See* 11 U.S.C. § 363(f).

17. The Debtor seeks authority from the Court to sell the Membership Interests subject to the Agreement and clear of any potential liens, with valid and enforceable lien(s) attaching to the proceeds of sale, pursuant to 11 U.S.C. §363(b) and (f).

18. 11 U.S.C. §363(f) states that the Debtor may sell property under subsection (b) of this section free and clear of any interest in such property or an entity other than the estate, only if (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

19. The proposed sale of the Membership Interests, is one not in the ordinary course of business, as provided by 11 U.S.C. §363(b). The sale will be free and clear of any liens, which are to attach to the sale proceeds. The only lien against the Membership Interests is that held by the IRS. Because the sale will allow the IRS to be satisfied as to all claims made against the estate, because the proceeds currently being held by the Debtor are sufficient to pay the IRS secured claim in full and will allow creditors to be paid 100 cents on the dollar, the Debtor proposes to sell the Membership Interests free and clear of liens as provided by 11 U.S.C. § 363(b) and (f).

**Shortened Notice**

20. The Debtor has provided notice of this Motion to the Notice Parties. In light of the nature of the relief requested, the Debtor respectfully submits that no further notice is necessary.

21. Shortened notice is necessary to approve the sale and close within the terms detailed in the Offer to Purchase without further notice so that closing can be conducted immediately after the Order approving the Sale is entered.

22. The Sale Price has been negotiated between the parties taking into consideration that distributions are made quarterly from the 7 LLC Interests. Upon closing, the distributions to the Debtor stop and all future distributions accrue to the Buyer. This calculation of distributions affects the sale price and has been taken into consideration in calculating the sale price.

23. If the sale is not closed within the time given in this notice, the sale price will have to be recalculated, agreed on yet again, and renoticed, delaying the closing even further.

24. The history of the parties in this case has been contentious and any agreement to sell as reflected in the Offer to Purchase is delicate and any further renegotiation should be avoided at all costs.

25. The Debtor has further drafted and filed a Third Amended Disclosure Statement which has been noticed out to creditors with an adequacy hearing scheduled for September 7, 2016.

26. To provide certainty to the assessment of the adequacy of the Third Amended Disclosure Statement, it is incumbent that the sale be approved so that adequate time is given to assess that adequacy.

27. The funds the estate will receive from the sale of the 7 LLC Interests will provide the remaining funds necessary for a 100% distribution to creditors.

28. The Debtor desires for creditors to have the Sale Order as part of the 3<sup>rd</sup> Amended Disclosure Statement immediately upon entry to avoid any question as to the sufficiency of funds.



29. Because the Sale pursuant to the Offer to Purchase will provide the final funds required to make a 100% distribution upon confirmation of the Plan, the Debtor desires to have the funds in its possession to be able to provide certainty to the Plan.

30. Because the Sale will resolve any issues about timing of the Plan and will provide for a 100% pay out, it is unlikely any creditor or party in interest will have an objection and would prefer to have the Sale closed according to its terms to allow the negotiated price to be preserved to fund the Plan so the creditors will be paid in full without further negotiation.

WHEREFORE, the Debtor respectfully requests that the Court allow the sale of the Membership Interests to be free and clear of all liens, claims and encumbrances, that the Court allows the 14-day stay provided for by Rule 6004(h) to be waived, that notice be shortened to that given, and grant the Debtor such further relief as is just and equitable.

July 28, 2016

Respectfully submitted,  
Steve and Celeste Murphy

By: /s/ Michael J. Davis  
One of their Attorneys

Michael J. Davis  
BKN Murray LLP  
1500 Eisenhower Lane  
Suite 800  
Lisle, Illinois 60532  
Phone: (630) 915-3999  
[mdavis@bknmurray.com](mailto:mdavis@bknmurray.com)

**LIMITED LIABILITY COMPANY  
MEMBERSHIP INTEREST PURCHASE AGREEMENT**

This agreement (the "Agreement") is made this 27th day of July, 2016, by and between Wayne H. Erickson, individually and/or as trustee of the Wayne H. Erickson Revocable Trust dated January 6, 2009, ("Buyer") and Steven S. Murphy ("Seller" or "Debtor"), or as his ownership may otherwise appear, as Debtor in Possession in the Chapter 11 case in the Northern District of Illinois, Western Division, titled *In re: Steve and Celeste Murphy, Debtors*, Case No. 13-80740 (the "Bankruptcy Case") with respect to the purchase and sale of membership interests owned by the Seller in seven (7) limited liability companies (collectively the "LLCs" referenced in attached Exhibit A), which purchase is hereinafter referred to as the "Transaction."

RECITALS:

Whereas, the Bankruptcy Court and U.S. Trustee's office have indicated on the record an expectation that the Debtor submit a Plan of Reorganization providing for 100% payout to all creditors, including unsecured creditors; and

Whereas, the Debtor has significant funds in its Debtor-in-Possession ("DIP") account to pay most but not all of the creditors in full in the Bankruptcy Case; and

Whereas, the LLCs referenced in Exhibit A can be purchased by Buyer immediately for cash at a closing approved by the Bankruptcy Court for an amount sufficient to allow the Seller to submit a Plan of Reorganization providing for 100% payout to all creditors, when combined with the funds currently in the DIP account; and

Whereas, Buyer is willing to purchase the membership interests of Seller pursuant to all terms set forth in this Agreement.

Now, therefore, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, it is hereby AGREED by and between the parties as follows:

AGREEMENT:

1. Recitals. The recitals set forth above are fully incorporated herein by reference.
2. Assets Purchased. The assets being purchased and sold free and clear of all liens at Closing (as defined herein) consist of the membership interest of Seller in the 7 limited liability companies set forth in Exhibit A attached hereto.
3. Purchase Price. Buyer shall pay to Seller (or as directed by Court Order in the Bankruptcy Case) the sum of One Million Eight Hundred Thirty-seven Thousand Five Hundred Dollars (\$1,837,500.00) cash at Closing (as defined herein) plus a waiver by Wayne H. Erickson of his right to seek reimbursement of costs and fees (including outside accounting fees) relating to those matters set forth in paragraph 6 of the Court's April 1, 2016, Agreed Order [Dkt. 261] plus a waiver by Wayne H. Erickson of Wayne H. Erickson's \$112,500 portion of Court Claim No. 19 (as amended), which portion is evidenced by Partial Transfer of Claim Other than for Security [Dkt.

326], plus the calculated prorated portion through Closing of the Seller's anticipated distribution based on historical practices for the third quarter of 2016 for the Debtor's membership interests in said seven LLCs, for 100% of Seller's membership interests in said seven LLCs set forth in Exhibit A, free and clear of all liens and encumbrances.

4. Closing. The closing date ("Closing") shall be on or before August 10, 2016, at the law offices of Reno & Zahm LLP, or such other location as mutually agreed upon by the parties, at 10:00 a.m. CDT.

5. Deliverables at Closing.

a. Seller shall provide the following at Closing, in form satisfactory to the Buyer:

- i. Final and non-appealable Order (or containing a finding consistent with 11 U.S.C. § 363(m)) in the Bankruptcy Case approving sale of 100% interest of the Seller in the 7 LLCs set forth in Exhibit A free and clear of all liens and encumbrances pursuant to Section 363 of the Bankruptcy Code;
- ii. Fully executed documents transferring said ownership to the Buyer;
- iii. Any and all other documents necessary to be executed by Seller or provided by Seller to effectuate transfer of Seller's ownership interest and prorata distribution payment pertinent to the LLC memberships set forth in Exhibit A;
- iv. A release in form and substance acceptable to Buyer.

b. Buyer shall provide the following at Closing, in form satisfactory to the Seller:

- i. Cash or certified check payable to the order of the Seller, or wire transfer to the account of the Seller, or such other payee as may be directed by Order of the Bankruptcy Court, as payment in full for all sums due Seller for Buyer receiving 100% of the Seller's membership interests in the 7 LLCs set forth in Exhibit A free and clear of all liens and encumbrances.

6. Miscellaneous.

- a. This Agreement shall in all respects be construed in accordance with and governed by the substantive laws of the State of Illinois and the Bankruptcy Code, as applicable, without reference to its choice of law rules and the parties agree that any litigation relating hereto shall be commenced in the applicable courts in Winnebago County, Illinois.
- b. Both parties agree to cooperate in the execution of any and all documentation as necessary to effectuate the Transaction set forth in this Agreement.
- c. This Agreement embodies the entire agreement and understanding of the parties with respect to the subject matter hereof.

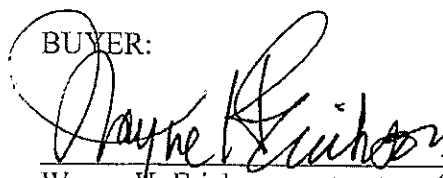
- d. This Agreement and various rights and obligations arising hereunder shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and permitted assigns.
- e. The parties hereby acknowledge and agree that this Agreement may be executed in counterparts, each of which when executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument, and that a facsimile, photocopy, or electronically transmitted signature shall have the same force and effect as an original signature.

Executed at Rockford, Illinois, the day and year first above written.

SELLER:

\_\_\_\_\_  
Steven S. Murphy,  
Debtor in Possession, *In re: Steve and Celeste  
Murphy, Debtors*, Case No. 13-80740

BUYER:



\_\_\_\_\_  
Wayne H. Erickson, as trustee of the Wayne H.  
Erickson Revocable Trust dated January 6,  
2009

**EXHIBIT A**

A	B	C
<u>Entity</u>	<u>State</u>	<u>Ownership</u>
Venture I, L.L.C.	IL	WE-38%, SM-28%, GT-28%, MK-6%
Venture II, L.L.C.	IL	WE-40%, SM-30%, GR-30%
Belvidere Luckow, L.L.C. majority member of Belvidere Clinic, L.L.C.	IL	WE-40%, SM-30%, GR-30%
Trainer Investments, LLC	IL	WE-30%, SM-30%, GT-30%, MK-10%
GNI of Hoffman Estates, L.L.C.	IL	WE-30%, SM-40%, GT-30%
Guilford Investments, LLC	IL	WE-40%, SM-40%, GT-20%
Belvidere Venture, L.L.C.	IL	WE-50%, SM-33.3%, JST-16.7%
WE = Wayne H. Erickson's Interest		
SM = Steven S. Murphy's Interest		
GR = George T. Ralph's Interest		
JST = James R. Seigfreid as Trustee of the James R. Seigfreid Trust's Interest		
MK= Michael J. Kaspar's Interest		

**EXHIBIT A**

A	B	C
<u>Entity</u>	<u>State</u>	<u>Ownership</u>
Venture I, L.L.C.	IL	WE-38%, SM-28%, GT-28%, MK-6%
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Belvidere Luckow, L.L.C. majority member of Belvidere Clinic, L.L.C.	IL	WE-40%, SM-30%, GR-30%
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GNI of Hoffman Estates, L.L.C.	IL	WE-30%, SM-40%, GT-30%
Guilford Investments, LLC	IL	WE-40%, SM-40%, GT-20%
Belvidere Venture, L.L.C.	IL	WE-50%, SM-33.3%, JST-16.7%
WE = Wayne H. Erickson's Interest		
SM = Steven S. Murphy's Interest		
GR = George T. Ralph's Interest		
JST = James R. Seigfreid as Trustee of the James R. Seigfreid Trust's Interest		
MK= Michael J. Kaspar's Interest		