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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION

MORAD JAVEDANFAR and YAFFA
JAVEDANFAR,

Debtors,

TIMOTHY J. YOO, CHAPTER 7
TRUSTEE FOR THE BANKRUPTCY
ESTATE OF MORAD JAVEDANFAR
and YAFFA JAVEDANFAR,

Plaintiff,

vs.

MORAD NEMAN and MBN REAL
ESTATE INVESTMENTS, LLC,

Defendants.

Case No. 2:13-bk-27702-ER
Chapter 7

Adv. No. 2:15-ap-01363-ER

**THE RECEIVER AND JLAMP'S JOINT
NOTICE OF MOTION AND MOTION FOR
AN ORDER:**

**(1) APPROVING BIDDING PROCEDURES
FOR THE SALE OF DEFENDANT MBN'S
INTERESTS TO SATISFY THE COURT'S
CHARGING ORDERS [ECF NOS. 423 & 424];**

**(2) APPROVING THE SALE OF PROPERTY
UNDER 11 U.S.C. § 363 SUBJECT TO
HIGHER AND BETTER OFFERS;**

**(3) APPROVING THE FORM AND MANNER
OF NOTICE; AND**

**(4) SETTING THE AUCTION OF THE
SUBJECT INTERESTS TO SATISFY THE
CHARGING ORDERS**

Hearing and Auction Date

Date: July 12, 2023

Time: 11:00 a.m.

Place: Courtroom 1568
255 E. Temple Street
Los Angeles, CA 90012

Original J.: Oct. 7, 2019

Final J.: June 23, 2021

Charging Orders: Nov. 29, 2021

NOTICE OF MOTION AND MOTION

TO THE HONORABLE ERNEST M. ROBLES; ALL PARTIES; 310 E. BOYD ST. PARTNERSHIP L.P.; SKY HIGH INVESTMENT COMPANY, LLC; AND THEIR ATTORNEYS:

Notice of Hearing: **PLEASE TAKE NOTICE** that on July 12, 2023, at 11:00 a.m. Pacific Standard Time, or as soon thereafter as the matter may be heard, in Courtroom 1568 of the United States Bankruptcy Court, Central District of California, Los Angeles Division, located at 255 East Temple Street, 15th Floor, Los Angeles, CA 90012, Real Party in Interest/Successor to the Trustee/Charging Order Beneficiary/Judgment Creditor JL AM Plus, LLC (“JLAMP”), and the Court-appointed Receiver under the Court’s November 29, 2021 Charging Orders (ECF Nos. 423 and 424) (the “Charging Orders”), The Stapleton Group (the “Receiver”), will and hereby do both jointly move (the “Joint Motion”) the Court for an order pursuant to the Charging Orders and the jurisdiction the Court retained therein to enforce its orders and the June 23, 2021 Judgment After Second Appeal in this Matter (ECF No. 400) (the “Final Judgment”), to execute the auction of the interests of Defendant MBN Real Estate Investments, LLC (“MBN”) in 310 E. Boyd St. Partnership L.P. (the “Boyd Interest”) and in Sky High Investment Company, LLC (the “Sky High Interest”) as described in the Charging Orders (collectively, the “Interests”)

Notice of Procedures Hearing: To the extent the Charging Order sale may be construed as a sale of a portion of the estate’s assets—because the judgment debt represents the cash equivalent of the Debtor’s interests at the time of the Debtor’s fraudulent transfers to MBN—the Joint Motion is also made pursuant to 11 U.S.C. §§ 105 and 363, Rules 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and L.B.R. 6004-1 for an order:

- 1) Approving the sale bidding procedures (the “Bidding Procedures”) attached to the declaration of the Receiver’s Managing Director, David Kieffer (“Receiver Declaration”) as **Exhibit 1**;
- 2) Authorizing the Receiver’s sale of MBN’s Interests;

1 3) Approving the form and manner of notice, as described in more detail in the Joint
2 Motion;¹ and

3 4) Setting the auction of the Interests (the “Auction”).

4 Subject to the Court’s approval and subject to overbidding, JLAMP (additionally referred
5 to herein as the “Proposed Buyer”), has proposed to purchase the Interests via creditor’s bid, for
6 \$1,000,000—the amount for which MBN previously proposed to settle MBN’s judgment debt to
7 JLAMP. As of the date of this Joint Motion, the aforementioned judgment debt totals
8 **\$2,185,354.89** (the “Judgment Debt”).

9 **PLEASE TAKE FURTHER NOTICE** that the hearing to approve the Bidding Procedures
10 will be held on Wednesday, July 12, 2023, at 11:00 a.m., Pacific Standard Time (the “Procedures
11 Hearing”), at the United States Bankruptcy Court for the Central District of California, Los Angeles
12 Division, Courtroom 1568, located at 255 East Temple Street, Los Angeles, California 90012, the
13 Honorable Judge Robles presiding (the “Court”).

14 Notice of Auction: **PLEASE TAKE FURTHER NOTICE** that, immediately
15 following the Procedures Hearing and the granting of the proposed Bidding Procedures:

- 16 1) The opportunity for overbidding will occur at the Auction to be held before the
17 aforementioned Court, on Wednesday July 12, 2023, at 11:00 a.m.
- 18 2) In order to participate in the Auction, bids must be actually received on or before
19 Friday July 7, 2023, at 12:00 p.m. Pacific Standard Time by the Receiver (The
20 Stapleton Group c/o David Kieffer, 515 South Flower Street, 18th Floor, Los
21 Angeles, CA 90071; Email: dkieffer@stapletoninc.com; Telephone: (213) 235-
22 0600). The Bidding Procedures are attached to the Receiver Declaration as **Exhibit**
23 **1.**
- 24 3) At the conclusion of the Auction, JLAMP and the Receiver will ask the Court to
25 approve the sale of the Interests, each individually or collectively, either to the
26 Proposed Buyer or to the bidder(s) who submit the highest and best bid(s) (the
27

28 ¹ All capitalized terms used herein shall have the meaning ascribed to them in the Joint Motion and in the Bidding
Procedures, unless otherwise defined.

1 “Successful Bidder(s)”) at the Auction and concurrent hearing to approve the sale
2 (the “Sale”).

3 Notice of Opposition Procedure: **PLEASE TAKE FURTHER NOTICE** that,
4 pursuant to L.B.R. 6004-1(b)(4), any opposition to this Joint Motion must make such objection in
5 the form required by LBR 9013-1(f), filed with the Court and served upon counsel to JLAMP via
6 CM/ECF filing, at least one (1) day prior to the Procedures Hearing. Opposition papers not timely
7 filed and served may be deemed by the Court to be consent to the granting of this Joint Motion.

8 This Joint Motion is based on this Notice of Motion; the accompanying Memorandum of
9 Points and Authorities; the Receiver Declaration; the statements, arguments and representations of
10 counsel who appear at the hearing on the Joint Motion; the record in this case; any other evidence
11 properly presented to the Court prior to or at the hearing on the Joint Motion; and all matters of
12 which this Court may properly take judicial notice.

13 **WHEREFORE**, the Receiver and JLAMP respectfully request that the Court enter an
14 order:

- 15 1. Granting the Joint Motion;
- 16 2. Approving the Bidding Procedures attached to the Receiver Declaration as
17 **Exhibit 1**;
- 18 3. Authorizing the Sale of the Interests to the Proposed Buyer or Successful
19 Bidder(s) free and clear of all liens, claims, interests and encumbrances;
- 20 4. Setting the Auction for and conducting the Auction in the Court on July 12, 2023,
21 at 11:00 a.m.;
- 22 5. Ordering JLAMP, MBN, and the Receiver to sign all documents necessary to
23 consummate the Sale;
- 24 6. Ordering MBN to pay all customary costs of sale;
- 25 7. Finding that the Proposed Buyer or Successful Bidder(s) are “good faith”
26 purchaser(s) entitled to all of the protections and benefits of 11 U.S.C. § 363(m);
- 27 8. Waiving the 14-day stay provided in Bankruptcy Rule 6004(h);
- 28 9. Approving the scope and form of notice provided for the sale of the Interests; and

10. Granting such other and further relief the Court deems just and proper.

Dated: April 14, 2023

ARENTFOX SCHIFF LLP

By: /s/ John S. Purcell
JOHN S. PURCELL
ARAM ORDUBEGIAN
M. DOUGLAS FLAHAUT
DOUGLAS E. HEWLETT, JR.
Attorneys for Judgment Creditor
JL AM PLUS, LLC

Dated: April 14, 2023

THE STAPLETON GROUP

By: 
DAVID KIEFFER – SENIOR MANAGING DIRECTOR
Court-Appointed Charging Order Receiver

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MEMORANDUM OF POINTS & AUTHORITIES

INTRODUCTION

On November 29, 2021, the Court issued two Charging Orders against Defendant and Judgment Debtor MBN, entitling JLAMP to receive any distributions MBN would have been entitled to as a result of MBN's interests in Boyd LP and Sky High LLC (*see* ECF Nos. 423 and 424). The Charging Orders also appointed the Stapleton Group as Receiver and authorized and ordered the Receiver to sell at auction MBN's Interests in Boyd LP and Sky High LLC. Since the Charging Orders were issued, MBN refused to provide a proper accounting the Receiver as ordered, selectively chose (through its manager Morad Ben Neman) not to receive any distributions so as to prevent JLAMP from receiving those distributions, and stalled its production of financial records that would have facilitated the Receiver's auction of MBN's Interests.

After thorough due diligence and marketing by the Receiver for more than a year, in early December 2022, the Receiver and JLAMP met to discuss the Receiver's execution of the Court's Charging Orders upon MBN's Interests. During these meetings, the Receiver and JLAMP jointly agreed the Receiver should carry out an auction before the Court, pursuant to the Bidding Procedures described in **Exhibit 1** to the Receiver's Declaration. As JLAMP is the Judgment Creditor to MBN, the party in whose favor the Court issued the Charging Orders against MBN's Interests and the only entity to have submitted an offer to purchase the Interests, the Receiver proposes a sale of the Interests to JLAMP for \$1,000,000 via credit bid, subject to overbid(s) (the "Proposed Sale")—this is the same amount for which MBN previously offered to settle the Judgment Debt it owes to JLAMP.

Because the Interests are what the Court determined to be both actually and constructively fraudulent transfers by Bankruptcy Debtors Morad and Yaffa Javedanfar to MBN, it is possible the Court and/or the Ninth Circuit may construe the sale of MBN's interests pursuant to the Charging Orders as the sale of the Bankruptcy Estate's property. If so, the Sale and Bidding Procedures are subject to 11 U.S.C. §§ 105 and 363, Rules 6004 and 9014 of the Bankruptcy Rules, and/or L.B.R. 6004-1. Accordingly, the Receiver and JLAMP herein submit the Proposed Sale and Bidding Procedures to the Court for approval.

1 The Receiver and JLAMP jointly believe that an auction of the Interests conducted in
2 accordance with the Bidding Procedures will maximize the value of the Interests toward satisfaction
3 of MBN's Judgment Debt, which as of the date of the proposed Sale will total \$2,185,354.89. As
4 a result, the Receiver and JLAMP respectfully submit that the Court's approval of the Bidding
5 Procedures is essential and in the best interest of the estate and all Parties.

6 Upon approval of the Bidding Procedures, the Receiver or its agent will conduct the
7 Auction, to be held concurrently with the hearing to approve the sale (the "Sale Hearing") on
8 Wednesday July 12, 2023, commencing at 11:00 a.m. Pacific Time, at Courtroom 1568, 255 E.
9 Temple Street, Los Angeles, California 90012. At the Sale Hearing, the Receiver will ask the Court
10 to approve the Sale of the Interests to either the Proposed Buyer (JLAMP) or the Successful
11 Bidder(s).

12 **JURISDICTION AND VENUE**

13 This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334, and pursuant to the
14 jurisdiction the Court retained to enforce the Final Judgment and its Charging Orders. *See* ECF
15 No. 423 at 3:24-25, ECF No. 424 at 3:24-25. This is a core proceeding pursuant to 28 U.S.C. §
16 157(b)(2)(A) and (O). The venue of this case is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

17 The statutory predicates for the relief sought herein are sections 105(a) and 363 of the
18 Bankruptcy Code, and Rules 2002, 6004, and 9014 of the Bankruptcy Rules and Local Bankruptcy
19 Rule 6004-1.

20 **STATEMENT OF RELEVANT FACTS**

21 **I. CASE BACKGROUND.**

22 In this action, JLAMP purchased from the Trustee the right, title, and interest in the
23 Trustee's fraudulent conveyance claims against MBN in the above-captioned adversary
24 proceeding. ECF No. 333 at 4. JLAMP sought to avoid, as actually and constructively fraudulent,
25 the transfer of interests in various parcels of real property from Debtors Morad and Yaffa
26 Javedanfar to MBN. *Id.* at 1.

27 Debtors had transferred to MBN, less than a year before filing for bankruptcy, three roughly
28 20% interests: (1) a 19.8% interest in Boyd LP (which holds the real property located at 310 E.

1 Boyd St. in Los Angeles); (2) a 20% interest in Sky High LLC (which holds the real property
2 located at 931 E. Pico Blvd. in Los Angeles); and (3) a 19.8% interest in a tenancy-in-common
3 interest in 715 E. 14th Street in Los Angeles (the “Tenancy-in-Common Interest”).²

4 The Court held a bench trial and, among other things, noted that: the testimony by Morad
5 Ben Neman (MBN’s manager, as well as the manager of Boyd LP and Sky High LLC) was not
6 credible; Morad Ben Neman had been recently convicted of fraudulently constructing financial
7 transactions; the testimony and valuations of the subject parcels of real property by MBN’s expert
8 was not credible; and the testimony by MBN and Debtors claiming that a certain debt purportedly
9 owed by Debtors to MBN was real was not credible. *Id.* at 5-6, 8, 11-12, 16-20. The Court
10 determined the transfers of the Interests to MBN to be both actually and constructively fraudulent.
11 *Id.* at 8-15.

12 Rather than avoiding the transfers, the Court determined the value of the fractional interests
13 at the time of the transfers, and awarded JLAMP the cash equivalent of that value as monetary
14 damages. *Id.* at 15, 21-27, 30-31. The Court also awarded JLAMP its reasonable attorneys’ fees
15 as the prevailing party based upon the attorneys’ fee provision contained in the underlying contract.
16 *Id.* at 31-33. In total, on October 7, 2019, the Court awarded JLAMP judgment in the amount of
17 \$1,813,635.62 including its attorneys’ fees and costs (the “Original Judgment”) *Id.* at 28-30, ECF
18 Nos. 341, 342.

19 **II. PROCEDURAL HISTORY AFTER THE ORIGINAL JUDGMENT**

20 After the Court entered the Original Judgment on October 7, 2019, MBN first appealed
21 unsuccessfully to the Bankruptcy Appellate Panel (“BAP”), and then again unsuccessfully to the
22 Ninth Circuit. ECF No. 400 at 2. MBN’s BAP appeal forced JLAMP to incur \$153,005.20 in
23 additional attorneys’ fees, and MBN’s Ninth Circuit appeal forced JLAMP to include another
24 \$106,408.65 in attorneys’ fees, each of which the Court awarded to JLAMP as the prevailing party.
25 ECF No. 382; EF No. 400 at 3-4. Even after the unsuccessful appeals, MBN refused to satisfy the
26 judgment. *See* ECF No. 400 at 2-3. In fact, in the nearly two years between the Original Judgment
27 and the Final Judgment (which was entered on June 23, 2021), MBN refused to pay a single cent

28 ² The Tenancy-in-Common interest is not subject to the Charging Orders.

1 on the judgment. *Id.* MBN did *offer* to settle its judgment debt to JLAMP for \$1,000,000 when
2 the Parties mediated before the Ninth Circuit Mediator; however, the judgment at the time was
3 worth nearly \$2,000,000—a judgment debt already adjudged by this Court and recorded at the
4 County Recorder’s Office. Receiver Decl. ¶ 7. JLAMP therefore did not accept the offer.

5 **III. THE CHARGING ORDERS AGAINST THE INTERESTS**

6 Because years had passed since the Original Judgment, and MBN still refused to pay any
7 portion of any permutation of the judgment—even after the Final Judgment had become final—
8 JLAMP moved for and the Court granted Charging Orders against MBN’s Boyd LP Interest and
9 Sky High LLC Interest. *See* ECF Nos. 423, 424. In sum, the Charging Orders ordered: (1) MBN
10 to provide a full accounting of its interest in Boyd LP and Sky High LLC to the Receiver and
11 JLAMP; (2) a Charging Order Lien; (3) the appointment of the Stapleton Group as Receiver to
12 carry out the Charging Orders; (4) that JLAMP was entitled to receive all distributions MBN
13 otherwise would have received by virtue of its partnership interest in Boyd LP and membership
14 interest in Sky High LLC; and (5) that the Receiver was authorized to immediately sell the Interests
15 toward satisfaction of the Final Judgment.

16 As to the accounting the Court had ordered: Morad Ben Neman (MBN’s principal and
17 namesake) submitted a half-page declaration stating that MBN was not, had not during the entirety
18 of the adversary proceeding, and would not over the next year be entitled to any distributions by
19 way of its ownership in the Interests. ECF No. 427. Morad Ben Neman—as manager of MBN,
20 Boyd LP, and Sky High—effectively decided MBN would not receive any distributions so as to
21 prevent JLAMP from recovering any distributions as ordered by the Charging Orders. The
22 declaration provided no further financial information about MBN to enable the Receiver to carry
23 out the Charging Orders.

24 Now, over a year-and-a-half after the Final Judgment and over a year after entry of the
25 Charging Orders, JLAMP has not recovered any portion of the Final Judgment from MBN via
26 distributions or any other means. As of the date of the Proposed Sale, the Final Judgment debt
27 MBN owes to JLAMP will total **\$2,185,354.89**.

1 **IV. SALE AND MARKETING OF THE PROPERTIES**

2 The Court appointed the Receiver to enforce the Charging Orders including by selling the
3 Interests toward satisfaction of the Final Judgment. Since the Charging Orders were issued,
4 JLAMP provided the Receiver with as much financial information about MBN as it could (e.g., the
5 MBN ledgers, tax returns, and property valuations submitted as trial exhibits), and MBN eventually
6 provided some modicum of more recent financial information. Receiver Decl. ¶¶ 5–13.

7 Over the last year, the Receiver has worked diligently to market the Interests for sale. *Id.*
8 First, the Receiver spent several months between December 2021 and June 2022 requesting,
9 gathering, and reviewing MBN’s historic finances, the basis for and conclusions regarding the value
10 of the Interests, and MBN’s current finances, financial management, operations, and management
11 and ownership structures. *Id.* ¶¶ 5–9. The Receiver first reviewed the purported accounting by
12 MBN, and then the documents the Receiver requested from JLAMP. *Id.* ¶¶ 6–7. Then, in May and
13 June 2022, the Receiver made multiple document requests of MBN. *Id.* MBN eventually supplied
14 some though not all of the requested information. *Id.* ¶ 7.

15 After reviewing the documents and information it obtained, the Receiver reached out
16 through multiple channels of communications to potential buyers, including through at least one
17 network catering to sales and associated buyers specifically of minority interests in real property
18 and/or business entities. *Id.* ¶¶ 8–9. After more than a year’s worth of effort, the Receiver was
19 unable to find any potential buyers to express serious interest, due to, among other things: (i) the
20 fact that the Interests are minority fractional interests; (ii) the nature in which Morad Ben Neman
21 operates MBN, Sky High LLC, and Boyd LP; and (iii) the multiple pieces of litigation and *lis*
22 *pendenses* associated with the Interests and the parties affiliated with the Interests. *Id.* ¶ 10. The
23 only buyer to have expressed serious interest in purchasing the Interests was JLAMP. *Id.* ¶ 11. Of
24 note, the Court commented upon and applied a discount to its valuations of the Interests due to their
25 unmarketability. ECF No. 333 at 21:15-23:2. The Interests remain generally unmarketable.
26 Receiver Decl. ¶ 10.

27 **V. THE PROPOSED SALE & BIDDING PROCEDURES**

28 Because JLAMP was the only seriously interested buyer after more than a year’s worth of

1 effort by the Receiver, on April 5, 2023, JLAMP as Proposed Buyer offered \$1,000,000 via
2 creditor's bid to purchase the Interests. *Id.* ¶ 4. Of note, the Court determined that the Boyd LP
3 Interest was valued at \$97,260.20, and that the Sky High Interest was valued at \$943,252.55
4 (roughly \$1,040,000 combined). ECF No. 333 at 25. If the Receiver does not receive a higher or
5 otherwise better offer for the Interests at the Auction, the Receiver and JLAMP will request that
6 the Court enter an order approving the sale of the Interests to JLAMP for a combined \$1,000,000.

7 The Receiver believes that an auction of the Interests in accordance with the Bidding
8 Procedures will maximize the value of the Interests toward satisfaction of MBN's judgment debt.
9 The salient terms of the Bidding Procedures are summarized as follows:

10 1) Qualified Bidders Only: Only Qualified Bidders may participate in the Action
11 and sale process. Qualified Bidders are those prospective bidders who deliver a Bid
12 to the Receiver so that the Bid is actually received on or before Friday July 7, 2023,
13 at 12:00 p.m. Pacific Standard Time.

14 a. The Receiver's Contact Information / Submission of Bids to: The
15 Stapleton Group c/o David Kieffer, 515 South Flower Street, 18th Floor, Los
16 Angeles, CA 90071; Email: dkieffer@stapletoninc.com; Telephone: (213)
17 235-0600.

18 2) Overbid: Any Overbid offer must equal at least one-million fifty thousand
19 dollars (\$1,050,000.00) in cash consideration;

20 3) Overbid Increments: Any overbids shall exceed any previous bid by fifty-thousand
21 dollars (\$50,000.00);

22 4) Overbid Period: All Overbids shall be irrevocable until seven (7) days after
23 the Interests have been sold pursuant to the closing of the sale approved by the Court
24 in a final, non-appealable order unless such Overbid is designated as a Back-Up Bid;

25 5) Ability to Pay (Generally): All Overbids shall contain a statement that the
26 Overbid is not conditioned on obtaining financing, regulatory contingencies, any
27 internal approval, on the outcome of due diligence, or any other condition precedent
28

that would prevent the Qualified Bidder from entering into a Purchase and Sale Agreement (“PSA”) to purchase the Interests;

6) MBN as Qualified Bidder / Proof of Ability to Pay: If MBN is to participate in the auction as a Qualified Bidder, MBN must (i) make a minimum bid of \$1,050,000, and (ii) must concurrent with its Bid submission on or before July 7, 2023, at 12:00 p.m. Pacific Standard Time show proof of ability to pay via a cashier’s check in the amount of the Final Judgment as of the date of the auction: \$2,185,354.89. If MBN is the Successful Bidder in an amount lesser than \$2,185,354.89, the Receiver will deliver to JLAMP the amount it is due under the Successful Bid, the Receiver will file a request for payment of its costs within five (5) days of the Auction, and any remainder will be returned to MBN after the Receiver has been compensated pursuant to the Charging Order.

7) JLAMP as Qualified Bidder / Creditor’s Bid: If JLAMP is to participate in the actions as a Qualified Bidder, JLAMP may make any and all overbids up to the amount of the Final Judgment (\$2,185,354.89) by way of a creditor’s bid (entitling JLAMP to purchase the Interests for up to a combined \$2,185,354.89 in exchange for a reduction in the amount of MBN’s judgment debt to JLAMP in the amount of the judgment debt).

8) Interests Sold Together Unless & Until Third-Party Bids: Given that the Receiver and JLAMP expect only JLAMP and MBN will place Bids, in the interest of efficiency, the Interests will be auctioned together unless and until a third-party places a Bid and asks that the Interests be auctioned separately (i.e., requiring one bid for the Boyd LP Interests and a separate bid for the Sky High Interest). In that event:

- a. The Boyd LP Interest shall have a minimum bid of \$100,000 with a \$10,000 overbid increment; and
- b. The Sky High Interest shall have a minimum bid of \$900,000 with a \$40,000 overbid increment.

1 9) Third-Party Overbid Deposit: All Qualified Bidders other than MBN or
2 JLAMP must place with the Receiver an Overbid Deposit in the amount of
3 \$1,050,000 (i.e., it must be actually received by the Receiver) by the Overbid
4 Deadline (July 7, 2023, at 12:00 p.m. Pacific Standard Time). Any Overbid Deposit
5 Placed by a person or entity other than MBN or JLAMP shall be refunded if said
6 person or entity is not ultimately the Successful Bidder. If the Successful Bidder is
7 a third-party (i.e., not MBN or JLAMP), the Overbid Deposit placed by the
8 Successful Bidder will be non-refundable regardless of whether the Successful
9 Bidder ultimately perfects the Purchase.

10 10) Proposed Purchase and Sale: Any purchase and sale of the Interests shall be
11 executed as follows:

12 a. Any third-party who is the Successful Bidder shall execute all necessary
13 documents to effect its purchase of the Interest(s) on the date of the Auction,
14 in the presence of the Court. Any purchase by a third-party shall be effected
15 by the following: (i) the Receiver shall supply a transfer agreement for the
16 third-party's and MBN execution, which the third-party and MBN shall
17 execute at the conclusion of the Auction; and (ii) the third-party shall pay
18 the Successful Bid amount toward satisfaction of the Charging Order(s) at
19 the Auction.

20 b. If MBN is the Successful Bidder, no transfer or purchase agreement shall be
21 necessary; MBN's cashier's check shall be immediately delivered by the
22 Receiver to MBN.

23 c. If JLAMP is the Successful Bidder: (i) the Receiver shall supply a transfer
24 agreement for JLAMP's and MBN's execution at the conclusion of the
25 Auction and in the presence of the Court; and (ii) JLAMP shall submit its
26 irrevocable creditor's bid acknowledging the reduction of MBN's judgment
27 debt under the Final Judgment in the amount of JLAMP's successful bid.
28

1 d. To the extent any document required to effect the purchase of the Interest(s)
2 cannot be executed at the Auction and in the presence of the Court on the
3 date of the Auction, MBN shall execute any and all documents necessary to
4 effect the proposed sale within one (1) day of receipt of such document(s),
5 or else the Receiver is authorized to sign any such document(s) on MBN's
6 behalf solely for purposes of effecting the sale pursuant to the Charging
7 Order.

8 11) Third-Party Overbid PSA: All third-parties submitting an Overbid must submit a
9 proposed purchase and sale agreement ("PSA") for the purchase of the Interest(s)
10 and corresponding payment of the Overbid amount as consideration;

11 12) Miscellaneous Statements Required: The following statements shall also be
12 submitted with any Qualified Bid:

13 a. An acknowledgment and representation that the Qualified Bidder (other
14 than the Proposed Buyer): (i) has had an opportunity to conduct any and all
15 required due diligence regarding the Interest(s) prior to making its offer; (ii)
16 has relied solely on its own independent review, investigation and/or
17 inspection of any documents provided by the Debtor or Receiver; (iii) did
18 not rely upon any written or oral statements, representations, promises,
19 warranties or guaranties whatsoever, whether express or implied (by
20 operation of law or otherwise), regarding the Interest(s) or the completeness
21 of any information provided in connection therewith or with the Auction,
22 except as expressly stated in the proposed PSA; and (iv) is not entitled to any
23 expense reimbursement, break-up fee, or similar type of payment in
24 connection with its bid; and

25 b. Evidence, in form and substance reasonably satisfactory to the Receiver, of
26 authorization and approval from the Qualified Bidder's board of directors
27 (or other comparable governing body) with respect to the submission,
28 execution, delivery and closing of the PSA;

1 13) Auctioneer: The Receiver or its designated agent will conduct the Auction of the
2 Interests before the Court.

3 14) Successful Bid & Back-up Bid(s): Upon conclusion of the Auction, the Receiver
4 shall: (i) review each Overbid on the basis of financial and contractual terms and the
5 factors relevant to the sale process, including those factors affecting the speed,
6 certainty of consummating the Sale, and gross recovery pursuant to the Charging
7 Order; and (ii) identify the highest and otherwise best offer (the “Successful Bid”).
8 After the conclusion of the Auction, the Receiver shall present to the Court for
9 approval the Successful Bid and any Back-up Bid(s) at the Sale Hearing to be held
10 immediately following the Auction.

11 15) JLAMP as Preferred Back-Up Bidder; Option to Elect Second Back-Up Bidder:

12 In the event JLAMP becomes the Back-Up Bidder—given that JLAMP was
13 the original Proposed Buyer and therefore should not be prejudiced by the
14 Successful Bidder’s breach or failure to purchase—JLAMP shall be entitled to
15 preference (i.e., is the “Preferred Back-Up Bidder). This preference means that, in
16 the event JLAMP becomes the Preferred Back-Up Bidder, JLAMP is entitled at its
17 election either to: (a) perfect the Purchase as proposed and for the amount proposed
18 in the Proposed Sale (\$1,000,000); or (b) allow the otherwise third highest and best
19 offer (the “Second Back-up Bid”) to become the Successful Bidder, if that Second
20 Back-Up Bidder so consents, and for the Second Back-Up Bidder to perfect the
21 Purchase.

22 16) Failure to Purchase: Following a hearing approving the Sale of the Interest(s) to
23 the Successful Bidder, if such Successful Bidder fails to consummate an approved
24 sale because of a breach or failure to perform on the part of such Successful Bidder,
25 (a) he/she/it will forfeit his/her/its Overbid Deposit to the Receiver toward
26 satisfaction of the Charging Orders, and (b) the Receiver may consummate the Sale
27 with the Back-up Bid, as disclosed at the Sale Hearing, and the Receiver shall be
28

1 authorized to effectuate such sale without further order of the Court and to deliver
2 the proceeds directly to JLAMP toward satisfaction of the Charging Order(s).

3 17) Charging Order Delineation: If a third-party is the Successful Bidder, any purchase
4 and payment for the Boyd LP Interest shall be paid toward satisfaction of the
5 Charging Order regarding Boyd LP only, and any purchase and payment for the Sky
6 High Interest shall be paid toward satisfaction of the Charging Order regarding Sky
7 High LLC only.

8 To ensure that the best possible price for the Interests is obtained, the Receiver and JLAMP
9 jointly will provide notice of the Auction and the Bidding Procedures by serving this Motion and
10 the accompanying notice upon: (i) all taxing authorities having jurisdiction over the real property
11 held by the Interests; (ii) all known partners of Boyd LP; (iii) all known members of Sy High LLC;
12 (iv) all parties that have requested or that are required to receive notice pursuant to Bankruptcy
13 Rule 2002; and (v) all parties that are known or reasonably believed to have expressed an interest
14 in acquiring the Interests. The Receiver and/or JLAMP will also file the form F 6004-2 Notice of
15 Sale of Estate Property so that the sale is published on the Court's website. In this manner, the
16 Receiver and/or JLAMP will provide all parties who could potentially be interested in purchasing
17 the Interests with the opportunity to present higher and better bids pursuant to the Bidding
18 Procedures set forth herein and in the Receiver's Declaration.

19 **THE JOINT MOTION**

20 **I. THE PROPOSED BIDDING PROCEDURES ARE APPROPRIATE**
21 **AND SHOULD BE APPROVED**

22 Here, the Court has already authorized, and in fact ordered, the Receiver to sell the Interests
23 at auction, toward satisfaction of the Final Judgment and MBN's judgment debt owed to JLAMP.
24 ECF Nos. 423, 424. The Receiver and JLAMP jointly believe that the foregoing Bidding
25 Procedures provide an appropriate framework for selling the Interests and will enable the Receiver
26 to review, analyze, and compare all bids received to determine which bid is in the best interests of
27 the estate and the judgment creditor, JLAMP.
28

Both to aid the Court's approval of the proposed sale of the Interests, and in the event the Court additionally construes the sale of the Interests to be a sale of estate assets, the Receiver and JLAMP provide the below analysis which courts typically assess for sales of estate assets. For the reasons discussed below, the Receiver and JLAMP believe the Bidding Procedures are fair and reasonable under the circumstances.

II. THERE IS SOUND BUSINESS JUSTIFICATION FOR THE BIDDING PROCEDURES AND THE PROPOSED SALE

While a trustee may typically sell estate assets outside the ordinary course of business only pursuant to 11 U.S.C. § 363(b)(1), here the Court already ordered the Receiver to sell the Interests toward satisfaction of the Final Judgment. ECF Nos. 423, 424. If the Court construes the sale as a sale of estate assets, the Ninth Circuit requires that the sale be based upon the sound business judgment of the trustee. *See Symantec v. Claims Prosecutor LLC (In re Lahijani)*, 325 B.R. 282, 288-89 (B.A.P. 9th Cir. 2005); *In re Ernst Home Center, Inc.*, 209 B.R. 974, 979 (Bankr. W.D. Wash. 1997); *In re Chateaugay Corp.*, 973 F.2d 141 (2nd Cir. 1992). Given the procedural posture of this post-judgment adversary proceeding—where the Court appointed the Receiver to carry out the Charging Orders, and where JLAMP purchased the original Trustee's claims and thereby stepped into the shoes of the Trustee for purposes of the adversary proceeding—both the Receiver and JLAMP are analogous to a trustee for purposes of the proposed sale of the Interests. The Receiver and JLAMP have therefore submitted this Motion jointly.

A. The Bidding Procedures Are an Appropriate Means of Maximizing Value.

Here, as discussed below, sound business justification supports the proposed Bidding Procedures.

To obtain approval of a proposed sale of assets, the Receiver and JLAMP would need to show that the proposed purchase price is the highest and best offer available under the circumstances of the case. *See, e.g., In re Wonderbowl, Inc.*, 460 F.2d 1220, 1222 (9th Cir. 1972) (primary objective of bankruptcy sales is to attract highest possible bid from a reasonable buyer); *Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.)*, 107 F.3d 558, 564-65 (8th

1 Cir. 1997) (holding that in bankruptcy sales, “a primary objective of the code [is] to enhance the
2 value of the estate at hand.”); *Integrated Res., Inc.*, *supra* 147 B.R. at 659 (“It is well-established
3 principle of bankruptcy law that the . . . [Receiver’s] duty with respect to such sales is to obtain the
4 highest price or greatest overall benefit possible for the estate.”) (quoting *Cello Bag Co. v.*
5 *Champion Int’l Corn (In re Atlanta Packaging Prods., Inc.)*, 99 B.R. 124, 131 (Bankr. N.D. Ga.
6 1988)); *see Integrated Resources, Inc.*, *supra* 147 B.R. at 656-57 (noting that overbid procedures
7 that have been negotiated by a debtor-in-possession are to be reviewed according to the deferential
8 “business judgment” standard under which such procedures and arrangements are “presumptively
9 valid”). The Receiver and JLAMP are, however, afforded great judicial deference in the exercise
10 of their business judgment with respect to the procedures to be used in selling assets of the estate.
11 *See In re Integrated Resources, Inc.*, 147 B.R. 650, 656-57 (Bankr. S.D. N.Y. 1992) (noting that
12 overbid procedures and have been negotiated by a debtor-in-possession are to be reviewed
13 according to the deferential “business judgment” standard under which such procedures and
14 arrangements are “presumptively valid”); *In re 995 Fifth Ave. Assocs. L.P.*, 96 B.R. 24, 28 (Bankr.
15 S.D. N.Y. 1989).

16 In connection with sales of assets outside of the ordinary course of business, bankruptcy
17 courts frequently approve competitive bidding procedures as a means of ensuring that such sales
18 will generate the highest and best returns for the estate. *See, e.g., Doebling v. Crown Corp. (In re*
19 *Crown Corp.)*, 679 F.2d 774, 775 (9th Cir. 1982) (court required specific minimum overbid
20 amounts, deposits, and comparable deal terms to be used by all overbidders); *In re Crowthers*
21 *McCall Pattern, Inc.*, 114 B.R. 877, 879 (Bankr. S.D.N.Y. 1990) (noting that the bankruptcy court
22 had entered an order requiring that overbids be made in specified minimum increments with
23 deposits).

24 The Bidding Procedures described herein are reasonably calculated to encourage a buyer to
25 submit a final, genuine bid, and to ensure a sale at the highest and best price. The initial overbid
26 amount of \$1,050,000 was strategically chosen by the Receiver for several reasons: (i) the Court
27 valued the Interests at a combined \$1,040,512.75 at trial; (ii) MBN offered JLAMP \$1,000,000 to
28 settle its judgment debt to JLAMP during the Ninth Circuit mediation; (iii) the overbid amount will

1 allow for payment to the Receiver for its expenses in carrying out the Charging Order, which
2 payment is authorized by the Charging Orders (*see* ECF No. 423 at 3; ECF No. 424 at 3); and (iv)
3 the overbid amount is likely to promote competitive bidding between JLAMP (who stands to gain
4 value by obtaining the Interests under the proposed sale via a creditor's bid of roughly only half the
5 judgment debt owed to JLAMP) and MBN (who stands to gain value either by paying cash to
6 satisfy some or all of its judgment debt to JLAMP, or by paying to avoiding losing its fractional
7 interests, or by having its judgment debt reduced even if it is not the Successful Bidder).

8 The Receiver further believes that the Bidding Procedures provide a fair and appropriate
9 framework for selling the Interests, as they will enable the Receiver to review, analyze, and
10 compare all bids received to determine which bids are in the best interests of the Charging Order.
11 The Bidding Procedures provide the Parties to this proceeding, and any interested third parties, with
12 a reasonable opportunity to participate in a competitive bidding process.

13 Based on the forgoing, the Receiver and JLAMP request that this Court approve the Bidding
14 Procedures.

15 **B. The Proposed Sale is also Supported by Sound Business Judgment**
16 **and Should be Approved.**

17 After notice and a hearing, a trustee may sell estate assets outside the ordinary course of
18 business. 11 U.S.C. § 363(b)(1). The Ninth Circuit holds that a sale of estate assets should be
19 approved if it is in the best interests of the estate and creditors. *In re Huntington Ltd.*, 654 F.2d
20 578, 589 (9th Cir. 1991); *In re Equity Funding Corp.*, 492 F.2d 793, 794 (9th Cir. 1974).

21 In evaluating the propriety of a sale of estate property, courts evaluate whether: (i) a “sound
22 business purpose” justifies the sale; (ii) “accurate and reasonable notice” of the sale was provided;
23 (iii) “the price to be paid is adequate, i.e., fair and reasonable”; and (iv) “good faith, i.e., the absence
24 of any lucrative deals with insiders, is present.” *In re Slates*, No. BAP EC-12-1168-KIDJU, 2012
25 WL 5359489, at *11 (B.A.P. 9th Cir. Oct. 31, 2012) (citing *In re Wilde Horse Enters., Inc.*, 136
26 B.R. 830, 841 (Bankr. C.D. Cal. 1991)); *see also In re Copy Crafters Quick Printing, Inc.*, 92 B.R.
27 973, 983 (Bankr. N.D. N.Y. 1988).

28 Each of the above four factors suggest the Court should approve the Proposed Sale here.

1 **1. A Sound Business Justification Exists.**

2 The Receiver is afforded great judicial deference in the exercise of his business judgment.
3 *Lahijani, supra* 325 B.R. at 289; *GBL Holding Co., Inc. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R.
4 251, 254 (N.D. Tex. 2005). Courts applying the business judgment test afford a trustee (or receiver)
5 discretion in balancing the costs and benefits of administering or disposing of estate assets. *See In*
6 *re Canyon P'ship*, 55 B.R. 520, 524 (Bankr. S.D. Cal. 1985).

7 Here, the Proposed Sale will substantially benefit the estate and its creditors because it is in
8 direct furtherance of the Charging Orders, which themselves were issued in favor of judgment
9 creditor JLAMP—a monetary award to the party that sits in the shoes of the Trustee in lieu of
10 avoiding the transfers made by the debtors to Defendant and judgment debtor MBN. The sale will
11 discharge some or all of the judgment debt and will obviate the likelihood or need for further
12 litigation between JLAMP and MBN.

13 Accordingly, in addition to being in furtherance of the Charging Orders, sound business
14 justification exists for the Proposed Sale.

15 **2. The Receiver and JLAMP Have Given Adequate and Reasonable**
16 **Notice of the Sale.**

17 The purpose of the notice requirement is to provide an opportunity for objections and a
18 hearing before the Court if there are objections. *In re Karpe*, 84 B.R. 926, 930 (Bankr. M.D. Pa.
19 1988). A notice is sufficient if it includes the terms and conditions of the sale and if it states the
20 time for filing objections. *Id.*

21 The Receiver and JLAMP have complied with all of the applicable provisions of the
22 Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules. Specifically, the
23 Receiver and JLAMP will give (and concurrently with the filing of this Joint Motion have given)
24 notice of this Joint Motion and the proposed Auction, in accordance with Bankruptcy Rules
25 2002(a)(2), 6004(a) and (c), 9007, and 9014 and Rules 6004-1 and 9013-1 of the Local Bankruptcy
26 Rules, to all known creditors and parties-in-interest in this adversary proceeding, by first class mail.

27 The Receiver has publicized the Auction and Sale in a commercially reasonable manner
28 (and will continue to do so through the date of the Auction). In addition, the Receiver and JLAMP

are filing, concurrently with this Motion, a *Notice of Sale of Estate Property* (Local Bankruptcy Form 6004-2) to be posted on the Court's website. The Debtor believes that such notice constitutes adequate notice pursuant to 11 U.S.C. § 102 and requests that such notice be approved by this Court as being adequate under all of the circumstances.

3. The Purchase Price for the Interests Is Adequate.

The Receiver and JLAMP submit that the consideration provided by the Proposed Buyer for the Interests represents adequate and fair consideration for the Interests. In any sale of estate assets, the ultimate purpose is to obtain the highest price for the property sold. *In re Chung King, Inc.*, 753 F.2d 547 (7th Cir. 1985); *In re Alpha Indus., Inc.*, 84 B.R. 703, 705 (Bankr. Mont. 1988).

Here, the marketing efforts of the Debtor and its Agent are detailed in Statement of Relevant Facts Part IV above and the Receiver's Declaration which is incorporated herein.

Over the last year, the Receiver has worked diligently to market the Interests for sale. Receiver Decl. ¶¶ 5–13. The Receiver first spent several months between December 2021 and June 2022 requesting, gathering, and reviewing MBN's historic financial information, and information about its current finances, operations, and management structure. *Id.* ¶¶ 5–9. The Receiver made multiple document requests both to MBN and to JLAMP. *Id.* ¶¶ 5–8. After reviewing the documents and information it obtained, the Receiver reached out through multiple channels of communications to potential buyers, including a platform which markets specifically minority interests in real property and/or business entities. *Id.* ¶¶ 8–9. After more than a year's worth of effort, the Receiver was unable to find any potential buyers to express serious interest, due to, among other things: (i) the fact that the Interests are minority fractional interests; (ii) the nature in which Morad Ben Neman operates MBN, Sky High LLC, and Boyd LP; and (iii) the multiple pieces of litigation, injunctions, and *lis pendenses* associated with the Interests and the parties affiliated with the Interests.³ *Id.* ¶ 10. The only buyer to have expressed serious, concrete interest in purchasing the Interests was JLAMP—the Proposed Buyer under the Proposed Sale. *Id.* ¶ 11.

³ At trial, the Court commented upon and applied a discount to its valuations of the Interests due to their unmarketability. ECF No. 333 at 21:15-23:2. The Interests remain generally unmarketable. Receiver Decl. ¶ ____.

Moreover, the Bidding Procedures used herein include provisions intended to increase the likelihood that the highest and best price will be paid for the Interests, which is likely to include overbids by MBN and JLAMP, the two entities with the most at stake with respect to the judgment debt, Final Judgment, Charging Orders, and any sale of the Interests. Since the Interests will be sold after extensive marketing efforts and in auction format in accordance with the Bidding Procedures, the Receiver and JLAMP submit that the final purchase price offered for the Interests at the conclusion of the Auction will establish the fair market value for the Interests.

4. The Sale of the Interests to the Proposed Buyer Is in Good Faith.

Finally, the Sale is proposed in good faith. If the Proposed Buyer (JLAMP) is the Successful Bidder, it will obtain ownership of the Interests in exchange for reducing the judgment debt owed by MBN to JLAMP. If MBN is the Successful Bidder, it will retain ownership of the Interests and Morad Ben Neman will avoid having to admit his litigation adversary (JLAMP) or any other third-party into the limited partnership and LLC he manages. If a third-party is the successful bidder, MBN obtains the reduction of its judgment debt in the amount of the highest bid, and JLAMP will obtain partial or full satisfaction of its judgment debt whereas, to date, JLAMP has received nothing in satisfaction of the Final Judgment.

Additionally, the Bidding Procedures, including the Auction and Overbid process, will assure that the highest and best fair value are applied toward satisfying the judgment debt.

Accordingly, based on the foregoing, the Proposed Sale is based on sound business judgment. The Court should approve the Proposed Sale.

C. The Proposed Buyer is Entitled to Protection as a Good Faith Purchaser Under 11 U.S.C. § 363(m).

The following section is, again, only applicable if the Court construes the Proposed Sale as a sale of estate assets.

“[W]hen a bankruptcy court authorizes a sale of assets pursuant to § 363(b)(1) of the Bankruptcy Code, it is required to make a finding with respect to the ‘good faith’ of the purchaser.” *In re Abbotts Dairies*, 788 F.2d 143, 149-150 (3rd Cir. 1986). The purpose of such a finding is to facilitate the operation of section 363(m) of the Bankruptcy Code, which provides for certain

1 protections to be provided to good faith purchasers from the trustee pursuant to section 363. In this
2 respect, section 363(m) provides:

3 The reversal or modification on appeal of an authorization under
4 subsection (b) or (c) of this section of a sale or lease of property does
5 not affect the validity of a sale or lease under such authorization to
6 an entity that purchased or leased such property in good faith,
7 whether or not such entity knew of the pendency of the appeal,
8 unless such authorization and such sale or lease were stayed pending
9 appeal.

10 While the Bankruptcy Code does not define “good faith,” the Ninth Circuit has held that:

11 [G]ood faith . . . speaks to the integrity of his conduct in the course of the
12 sale proceedings. Typically, the misconduct that would destroy a
13 purchaser’s good faith status at a judicial sale involves fraud, collusion
14 between the purchaser and other bidders or the trustee, or an attempt to take
15 grossly unfair advantage of other bidders.

16 *Alpha Indus., supra; Southwest Products, Inc. v. Durkin (In re Southwest Products, Inc.)*, 144 B.R.
17 100, 103 (B.A.P. 9th Cir. 1992); *Wilsey v. Central Washington Bank (In re Adams Apple, Inc.)*, 829
18 F.2d 1484, 1489 (9th Cir. 1987).

19 First, the sale has preemptively been authorized, and in fact ordered, under the Charging
20 Orders.

21 Second, the Receiver submits that the Sale of the Interests pursuant to the Bidding
22 Procedures and the Auction will be conducted in an arms’ length transaction. The Receiver has
23 provided the Court with the Bidding Procedures well in advance of the Auction, and the Auction
24 itself will be conducted in the presence of the Court. The Proposed Sale and Auction will be fully
25 transparent, at arms’ length, and the Court will be able to assess these facts real-time.

26 Third, the Proposed Sale is also subject to an overbid, after extensive marketing efforts.

27 Fourth, in connection with the Proposed Sale to the Proposed Buyer, the Receiver has
28 evaluated the alternatives and acted with the intent of obtaining the best possible deal, i.e.,
maximum value, toward execution of the Charging Orders and satisfaction of the Final Judgment.

 Accordingly, the Court should find that the Proposed Buyer, or a Successful Bidder at the
Sale Hearing, has purchased the Interests in good faith as defined under 11 U.S.C. § 363(m).

1 **III. NOTICE OF THE PROPOSED SALE IS ADEQUATE**

2 The Receiver and JLAMP will give notice of this Motion, in accordance with Bankruptcy
3 Rules 2002(a)(2) and 9007 and Local Bankruptcy Rules 6004-1(b), and 9013-1(a) (the “Notice”),
4 to: (i) all taxing authorities having jurisdiction over the real property held by the Interests; (ii) all
5 known partners of Boyd LP; (iii) all known members of Sy High LLC; (iv) all parties that have
6 requested or that are required to receive notice pursuant to Bankruptcy Rule 2002; and (v) all parties
7 that are known or reasonably believed to have expressed an interest in acquiring the Interests.

8 The Receiver and JLAMP believe that such notice constitutes adequate notice pursuant to
9 11 U.S.C. § 102 and requests that such notice be approved by this Court as being adequate under
10 the circumstances.

11 **IV. THE COURT SHOULD PERMIT IMMEDIATE RELIEF**

12 The Receiver and JLAMP request that the Court waive Bankruptcy Rule 6004(h) (“Rule
13 6004(h)”), which provides that an “order authorizing the use, sale, or lease of property . . . is stayed
14 until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Although
15 Rule 6004(h) is silent as to when a court should “order otherwise” and eliminate or reduce the
16 fourteen (14)-day stay period, Collier on Bankruptcy suggests the fourteen (14)-day stay period
17 should be eliminated to permit a sale or other transaction to close immediately “where there has
18 been no objection to the procedure.” 10 COLLIER ON BANKRUPTCY ¶ 6004.11 (Alan N. Resnick &
19 Henry J. Somme reds., 16th ed.).

20 Here, a waiver of Rule 6004(h) will permit the Receiver to immediately realize and apply
21 the value of the Interests toward satisfaction of the Final Judgment and Charging Orders
22 immediately. Immediate relief should therefore be granted.

23 **CONCLUSION**

24 Based on the foregoing, the Receiver and JLAMP respectfully request that the Court enter
25 an order:

- 26 1. Granting the Joint Motion;
27 2. Approving the Bidding Procedures attached to the Receiver Declaration as

28 **Exhibit 1;**

- 1 3. Authorizing the Sale of the Interests to the Proposed Buyer or Successful
2 Bidder(s);
- 3 4. Setting the Auction for and conducting the Auction in the Court on July 12, 2023,
4 at 11:00 a.m. (Pacific Standard Time);
- 5 5. Ordering JLAMP, MBN, and the Receiver to sign all documents necessary to
6 consummate the Sale;
- 7 6. Ordering MBN to pay all customary costs of sale;
- 8 7. Finding that the Proposed Buyer or Successful Bidder(s) is a “good faith”
9 purchaser entitled to all of the protections and benefits of 11 U.S.C. § 363(m);
- 10 8. Waiving the 14-day stay provided in Bankruptcy Rule 6004(h);
- 11 9. Approving the scope and form of notice provided for the sale of the Interests; and
- 12 10. Granting such other and further relief the Court deems just and proper.

13
14 Dated: April 14, 2023

ARENTFOX SCHIFF LLP

15
16 By: /s/ John S. Purcell
17 ARAM ORDUBEGIAN
18 JOHN S. PURCELL
19 M. DOUGLAS FLAHAUT
DOUGLAS E. HEWLETT, JR.
Attorneys for Judgment Creditor
JL AM PLUS, LLC

20 Dated: April 14, 2023

THE STAPLETON GROUP

21
22 By: 
23 DAVID KIEFFER – SENIOR MANAGING DIRECTOR
24 *Court-Appointed Charging Order Receiver*

STATEMENT OF SERVICE

A motion for charging order relief against a partnership interest requires service upon the affected party and the partnership, though not each partner. *In re Raiton*, 139 B.R. 931, 934–35 (9th Cir. B.A.P. 1992); [6:1465] *Charging Orders Against Debtor Partnership/LLC Interests*, Cal. Prac. Guide Enf. J. & Debt, § 6G-7; Cal. Corp. Code § 708.320(a)(1). A motion for charging order relief against an LLC interest requires service upon the nonmoving party and each member of the LLC. Cal. Corp. Code § 708.320(a)(2); [6:1465] *Charging Orders Against Debtor Partnership/LLC Interests*, Cal. Prac. Guide Enf. J. & Debt, § 6G-7. JLAMP has thus concurrently served this Motion upon MBN; the 310 E. Boyd St. Partnership; and each known co-member in Sky High LLC: (i) the Yedidia Investment Defined Benefit Trust; and (ii) the Neman Family Revocable Investment Trust.

Dated: April 14, 2023

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