

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BIC REAL ESTATE DEVELOPMENT
CORPORATION and DANIEL R. NASE,
individually and d/b/a BAKERSFIELD
INVESTMENT CLUB,

Defendants,

BIC SOLO 401K TRUST and MARGARITA
NASE,

Relief Defendants.

Case No. 1:16-cv-00344-LJO-JLT

ORDER AUTHORIZING RECEIVER'S SALE
OF REAL PROPERTY LOCATED AT 1317
WILSON AVE., BAKERSFIELD, CA 93308

Ctrm: 4
Judge: Hon. Lawrence J. O'Neill

ORDER

In accordance with its September 19, 2016 Order Granting Stipulation to Waive Requirements of 28 U.S.C. § 2001(a) and (b) in Connection with, and to Establish Sales Procedures for, Receiver's Sales of Residential Real Property (the "Stipulation") and the sales procedures approved therein (the "Sales Procedures"), this Court has reviewed the August 18, 2017 Declaration of David P. Stapleton, the Court-appointed receiver (the "Receiver") regarding his proposed sale of the real property located at and commonly known as 1317 Wilson Ave.,

1 Bakersfield, CA 93308, Assessor's Parcel Number 111-173-02-00-6 (the "Property"). The legal
2 description for the Property is as follows:

3 LOT 206 OF TRACT 1288, IN THE COUNTY OF KERN, STATE OF
4 CALIFORNIA, AS PER MAP RECORDED JUNE 18, 1946 IN BOOK 5, PAGE
5 150 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
6 COUNTY.

7 EXCEPTING THEREFROM ALL PETROLEUM AND OTHER OILS AND
8 MINERALS, AND ALL GAS WITHIN L THE PROPERTY ABOVE
9 DESCRIBED, WHETHER NOW KNOWN TO EXIST OR HEREAFTER
10 DISCOVERED, AND THE RIGHT TO PROSPECT FOR, MINE AND
11 REMOVE THE SAME, WITH FULL RIGHT OF INGRESS AND EGRESS
12 FOR THESE PURPOSES, AND THE RIGHT TO DO ON AND IN THE
13 PROPERTY ABOVE DESCRIBED WHATEVER MAY BE REASONABLY
14 NECESSARY FOR THE FULL ENJOYMENT AND EXERCISE OF THE
15 PROPERTY, AND RIGHTS, SO EXCEPTED AND RESERFVED, BUT IF
16 THE EXERCISE OF ANY RIGHTS RESERVED IN THIS PARAGRAPH, ANY
17 CROPS AT THE TIME GROWING ON SAID LAND OR ANY
18 IMPROVEMENTS THERETOFORE ERECTED THEREON BY THE
19 GRANTEES HEREIN, THEIR SUCCESSORS OR ASSIGNS SHALL BE
20 DAMED, THE GRANTOR, HER HEIRS, DEVISEES, ASSIGNS OR
21 SUCCESSORS IN INTEREST, SHALL BE RESPONSIBLE FOR AND SHALL
22 PAY TO THE GRANTEES, THEIR SUCCESSORS OR ASSIGNS, THE
23 AMOUNT OF SUCH DAMAGE TO ANY SUCH CROPS OR
24 IMPROVEMENTS, AS RESERVED IN DEEDS BY JOHN MCWILLIAMS, AS
25 EXECUTOR OF THE WILL OF GRACIA M. OUGHTON, DECEASED; ET
26 AL, RECORDED MAY 23, 1946 AS INSTRUMENT NUMBERS 20087, 20088,
27 20089 AND 20090 IN BOOK 1320, PAGES 403, 404 AND 405 OF OFFICIAL
28 RECORDS.

APN: **111-173-02-00-6**

Having confirmed the Receiver's compliance with the Sales Procedures, and the 15-day
notice period provided for in the Stipulation having lapsed without objection to the Receiver's
proposed sale of the Property, this Court orders as follows:

1. The terms of the purchase and sale agreement, and all attendant documents
(collectively, the "PSA"), by and between the Receiver and Larry Edwards ("Buyer") in
connection with the Receiver's proposed sale of the Property to Buyer are approved;

2. The Court ratifies the Receiver's execution of the PSA and authorizes the Receiver
to perform all of his obligations under the PSA;

1 3. The Receiver's is authorized to sell the Property to Buyer or Buyer's designee, as
2 contemplated in the PSA, in exchange for the aggregate sum of \$128,500, subject to the applicable
3 terms of this Order;

4 4. The Receiver is further authorized to pay any commissions provided for in the PSA
5 and in connection with the consummation of his sale of the Property;

6 5. In accordance with the terms of the PSA, and without limiting those terms, Buyer
7 or Buyer's designee shall purchase the Property on an "as-is / where-is" basis, without any
8 representations or warranties whatsoever by the Receiver and his agents and/or attorneys
9 including, without limitation, any representations or warranties as to the condition of the Property,
10 except as expressly set forth in the PSA. Buyer or its designee is responsible for all due diligence,
11 including but not limited to inspection of the condition of and title to the Property, and is not
12 relying on any representation or warranty of the Receiver, except as expressly set forth in the PSA;

13 6. In the performance of his obligations pursuant to this Order, the Receiver's liability
14 in connection with the PSA and the sale of the Property to the Buyer shall be limited to the assets
15 of the receivership estate (the "Estate"). Neither the Receiver nor his professionals shall have any
16 personal liability for claims arising out of or relating to the performance of any actions necessary
17 to complete the sale of the Property as provided for herein;

18 7. Provided Buyer or Buyer's designee consents, in writing, the Receiver is hereby
19 authorized to amend or otherwise modify the PSA, in writing, as necessary to complete the sale of
20 the Property in the event that the Receiver determines, in his reasonable business judgment, that
21 such amendment or modification is reasonable and necessary, will benefit the Estate, avoid the
22 imposition of any liability upon the Estate, or is required pursuant to the terms of the PSA or any
23 other amendment or modification thereto, provided that any such amendment or modification does
24 not change the material terms of the contract, including the parties to the PSA and the purchase
25 price for the Property;

26 8. The Receiver is hereby authorized to take all actions and execute all documents
27 necessary to consummate and otherwise effectuate the sale of the Property to Buyer or Buyer's
28 designee, including, but not limited to, the PSA itself, any other documents required to be

1 executed pursuant to the PSA, and any related documentation, escrow instructions, or conveyance
2 documents consistent with selling and conveying title to the Property to Buyer or Buyer's
3 designee. The Receiver shall execute all documents necessary to consummate and otherwise
4 effectuate the sale of the Property as "David P. Stapleton, Court-appointed receiver" or any
5 reasonable variation thereof which clearly identifies the Receiver as a court-appointed receiver;

6 9. The Receiver is hereby authorized to execute and acknowledge a receiver's deed, or
7 similar instrument, conveying title to the Property to Buyer or Buyer's designee (the "Receiver's
8 Deed") to effectuate the conveyance, and cause the Receiver's Deed to be recorded on the date on
9 which close of escrow occurs pursuant to the terms of the PSA, or as determined by and between
10 the Receiver and Buyer or Buyer's designee;

11 10. Any licensed title insurer may rely on this Order as authorizing the Receiver to
12 transfer title to the Property as provided in the PSA and as authorized herein;

13 11. This Court shall retain jurisdiction over any dispute involving the Receiver in
14 connection with the sale of the Property; and

15 12. The Receiver shall provide Buyer or Buyer's designee with a certified copy of this
16 Order, as entered by the Court, directly or through escrow, at least five (5) days before Close of
17 Escrow, or as provided for in the PSA, and Buyer or Buyer's designee shall acknowledge receipt
18 of a copy of this Order, in writing. A certified copy of this Sale Order may be recorded
19 concurrently with the Receiver's Deed or at any time before the close of escrow, provided,
20 however, that failure to record this Order shall not affect the enforceability of this Order, the
21 enforceability and viability of the PSA, or the validity of the Receiver's Deed.

22

23 IT IS SO ORDERED.

24 Dated: September 6, 2017

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE

25

26

27

28