

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 8100
LEXINGTON AVE., BAKERSFIELD, CA
93306

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 24, 2017, Declaration of David P. Stapleton, the Court-appointed receiver (the "Receiver") regarding

ORDER APPROVING AND AUTHORIZING
RECEIVER'S SALE OF REAL PROPERTY

1 his proposed sale of the real property located at and commonly known as 8100 Lexington Ave.,
2 Bakersfield, CA 93306, assessor's parcel number **388-091-01-00-4** (the "Property"). The legal
3 description for the Property is as follows:

4 Lot 11 and the South 2.5 feet of Lot 10 of Tract 1655, in the County of Kern,
5 State of California, as per map recorded December 18, 1952 in Book 8, Pages 40
6 and 41 of Maps, in the office of the County Recorder of said County.

7 Excepting therefrom 50% of the mineral and hydrocarbon substances thereon or
8 underlying said property, together with the right of the grantors to take all of the
9 usual, necessary and convenient means for prospecting, exploring, working and
10 taking away said minerals and/or hydrocarbon substances including the right of
11 ingress, regress and egress over and across said property and to use such parts of
12 the surface of said property as may be necessary for the recovery of all oil or
13 minerals to be produced therefrom as reserved by Anida B. Hafter, a widow and
14 Louis C. Prest in deed recorded June 29, 1945 in Book 1248 Page 467, of
15 Official Records.

16 **APN: 388-091-01-00-4**

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

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

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

25 3. The Receiver's is authorized to sell the Property to Buyer or Buyer's designee, as
26 contemplated in the PSA, in exchange for the aggregate sum of \$140,000 subject to the applicable
27 terms of this Order;

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

5. In accordance with the terms of the PSA, and without limiting those terms, Buyer
or Buyer's designee shall purchase the Property on an "as-is / where-is" basis, without any

1 representations or warranties whatsoever by the Receiver and his agents and/or attorneys
2 including, without limitation, any representations or warranties as to the condition of the Property,
3 except as expressly set forth in the PSA. Buyer or its designee is responsible for all due diligence,
4 including but not limited to inspection of the condition of and title to the Property, and is not
5 relying on any representation or warranty of the Receiver, except as expressly set forth in the PSA;

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

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

19 8. The Receiver is hereby authorized to take all actions and execute all documents
20 necessary to consummate and otherwise effectuate the sale of the Property to Buyer or Buyer's
21 designee, including, but not limited to, the PSA itself, any other documents required to be
22 executed pursuant to the PSA, and any related documentation, escrow instructions, or conveyance
23 documents consistent with selling and conveying title to the Property to Buyer or Buyer's
24 designee. The Receiver shall execute all documents necessary to consummate and otherwise
25 effectuate the sale of the Property as "David P. Stapleton, Court-appointed receiver" or any
26 reasonable variation thereof which clearly identifies the Receiver as a court-appointed receiver;

27 9. The Receiver is hereby authorized to execute and acknowledge a receiver's deed, or
28 similar instrument, conveying title to the Property to Buyer or Buyer's designee (the "Receiver's

1 Deed") to effectuate the conveyance, and cause the Receiver's Deed to be recorded on the date on
2 which close of escrow occurs pursuant to the terms of the PSA, or as determined by and between
3 the Receiver and Buyer or Buyer's designee;

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

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

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

15 IT IS SO ORDERED.

16 Dated: September 6, 2017

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

17
18
19
20
21
22
23
24
25
26
27
28