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

2002 102317

In re: Chapter Seven KEVIN DEHAAN, Case No. 02 B 05056 Debtor. Hon. Bruce W. Black

062002174 Edg

ORDER APPROVING SALE OF REAL PROPERTY

At Chicago, Illinois, in said District and Division.

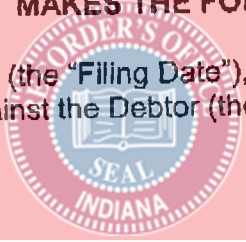
THIS CAUSE coming on to be heard upon the motion of DAVID LEIBOWITZ, the Interim Trustee herein (the "Trustee"), for authority, pursuant to Sections 363(f) and 363(m) of the United States Bankruptcy Code, 11 U.S.C. § 101 et. seq. (the "Code"), to sell all of the right, title, and interest of the debtor, KEVIN DEHAAN (the "Debtor"), and his wife, PATRICIA A. DEHAAN ("P. DeHaan"), in and to the property commonly known as 8607 W. 85th Street, Schererville, Indiana (the "Real Property"), together with certain contents and fixtures located on the Real Property as described in Exhibit A hereto (collectively, the "Property Contents") and certain appliances located on the Real Property as described in Exhibit B hereto (collectively, the "Appliances") (the Real Property, the Property Contents, and the Appliances shall collectively be referred to hereinafter as the "Sale Property") not in the ordinary course of business (the "Sale Motion"); due written notice of the initial hearing on the Sale Motion having been given to all interested parties and notice of the "Auction" (as hereinafter defined) having been provided; the only objection to the Sale Motion having been asserted by P. DeHaan and thereafter withdrawn; the Court having heard and considered the representations of the Trustee, Advance Bank, one of the petitioning creditors herein (the "Bank"), and counsel for the buyers of the Sale Property, Mark and Aida Dahlkamp, on behalf of themselves and/or their nominee (collectively, the "Buyer"), as well as the statements of other interested parties, and being otherwise fully advised in the premises;

STATE OF ILLINOIS CLERK OF COURT EASTERN DISTRICT

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NOW, THEREFORE, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT: FINAL ACCEPTANCE FOR TRANSFER

1. On February 7, 2002 (the "Filing Date"), the Bank commenced this action by filing an involuntary petition against the Debtor (the "Petition") pursuant to Chapter 7 of Title 11 of the Code.



PETER BENJAMIN LAKE COUNTY AUDITOR

1 Findings of fact shall also be construed as conclusions of law where appropriate. See Fed. R. Bankr. P. 7052.

51733.1 10/16/02

This is to certify that the within and above copy of document is a full, true and correct copy of the original thereof as the same appears on file in the office of the Clerk of the United States Bankruptcy Court for the Northern District of Illinois.

KENNETH S. GARDNER CLERK OF COURT

By Johnson Deputy Clerk Dated 10/23/02

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2. On February 13, 2002, the Bank filed a motion for the Immediate Appointment of an Interim Trustee and for Related Relief (the "Trustee Motion") and, therein, requested the appointment of an interim trustee to preserve the property and assets of the Debtor's estate.

3. On February 15, 2002, the Honorable Eugene R. Wedoff conducted a hearing on the Trustee Motion (the "Trustee Hearing"). The Debtor chose not to contest any of the allegations, evidence, or information contained in the Trustee Motion, or in the affidavits and other documents attached to thereto or otherwise presented at the Trustee Hearing.

4. Following the Trustee Hearing, this Court directed that an interim trustee be appointed an interim trustee with all of the power and duties provided under 11 U.S.C. § 303 (g). Subsequently, the Office of the U.S. Trustee appointed David P. Leibowitz as the Trustee.

5. The Debtor and P. DeHaan jointly own 100% of the beneficial interest in the land trust established pursuant to that certain trust agreement, dated January 19, 2002 and known as Trust Number 5320, under which Lake County Trust Company, an Indiana corporation (the "Land Trustee"), is the Trustee (the "Land Trust"). The Land Trust holds title to the Real Property, which is legally described in Exhibit C, attached hereto.

6. The Sale Property is subject to the following (collectively, the "Sale Property Interests"): (a) a first mortgage in favor of the Bank dated April 14, 2001, as amended and (b) other various claims and interests, including, but not limited to, mechanics liens.

7. The Trustee previously received an offer from the Buyer to purchase the Sale Property for the sum of \$525,000 (the "Initial Sale Offer"). On or about August 1, 2002, the Buyer tendered to the Trustee an earnest money deposit in the amount of \$25,000 (the "Buyer Deposit").

8. On July 29, 2002, the Trustee filed the Sale Motion. The Trustee served notice of the initial hearing on the Sale Motion, which was scheduled for August 6, 2002 (the "Initial Hearing"), upon all lien holders and counsel of record, the Office of the U.S. Trustee, creditors of the estate and all known prospective purchasers. The Trustee provided subsequent notice of the Sale Motion on August 30, 2002 to Economy Well, an additional lien holder against the Sale Property.

9. Under the Sale Motion, the Trustee requested authority to accept the Sale Offer, subject to the submission of competing bids, pursuant to an auction to be conducted on a date certain (the "Auction").

10. At the Initial Hearing, this Court entered a preliminary order approving a sale process of the Sale Property (the "Sale Procedure Order"). In the event of any inconsistency or contradiction as between this Order and the Sale Procedure Order, the terms of this Order shall prevail and the Sale Procedure Order shall be deemed to be amended accordingly.

11. Under the Sales Procedure Order, the Court authorized the Trustee to sell the Sale Property free and clear of all liens and encumbrances, with any liens to attach to the proceeds of the sale pursuant to section 363(f) of the Code. The Court further authorized the Trustee to accept the Sale Offer as modified in the manner set forth in the Sales Procedure Order, subject to, *inter alia*, competitive bidding and bid protection in favor of the Buyer in the amount of \$25,000. Finally, the Court authorized the Trustee to conduct the Auction on September 3, 2002 and scheduled related hearings on that date (the "Related Sale Hearings"). On September 3, 2002, the Court continued the Auction and the Related Sale Hearings to September 18, 2002.

12. The Trustee published notice of the Auction in the Chicago Tribune and The Times, a Hammond, Indiana newspaper.

13. No additional bids were submitted prior to the Auction.

14. On or about August 30, 2002, P. DeHaan filed an objection to the Initial Sale Offer (the "P. DeHaan Objection"). Pursuant to the P. DeHaan Objection, P. DeHaan contests the ownership of the Appliances allegedly purchased by P. DeHaan from Grants Appliances, Television and Video of Merrillville, Indiana.

15. Following negotiation between the Trustee, the Bank, P. DeHaan, and the Buyer, the Buyer increased the Initial Sale Offer from \$525,000 to \$540,000, with the Sale Property to be sold to the Buyer "as is, where is," with no express or implied representations, statements, conditions or warranties of any kind or nature whatsoever, with the Buyer agreeing to pay any and all real estate taxes accruing on the Sale Property and any and all closing costs, including, but not limited to, title commitment fees, transfer taxes, and survey costs (collectively, the "Increased Sale Offer"). There are no other contingencies to the closing of the Increased Sale Offer.

16. The Auction was conducted in open court as on September 18, 2002. Representatives of the Buyer, the Debtor, the Trustee, and the Bank were present. No additional bids were submitted.

17. Accordingly, the Increased Sale Offer was the highest and best offer received for the Sale Property.

18. The parties represent to the Court that after the hearing before this Court on September 18, 2002, an incident involving robbery and vandalism at the Real Property occurred on or about October 1, 2002, during which certain fixtures and other

items were stolen therefrom. Consequently, the Buyer has made an amended offer to purchase the Sale Property, subject to the same additional terms as the Increased Sale Offer, of \$510,000.00 (the "Final Sale Offer").

19. Following negotiations by and amongst the Trustee, the Bank, and P. DeHaan, P. DeHaan has agreed to withdraw the P. DeHaan Objection and has agreed to allow the Trustee to sell any interest of P. DeHaan in the Appliances to the Buyer, subject to the stipulation that the Appliances shall have an agreed value for purposes of allocation of the proceeds of the Sale of \$10,000. No other parties objected to the Final Sale Offer.

20. No brokerage commissions are due in connection with the Final Sale Offer.

21. Based upon the representations of counsel for the Buyer, the Buyer has agreed to the terms and conditions of the sale as announced in open court and has agreed to make the necessary payments and deliveries required hereunder at the closing, which shall occur no later than 12 calendar days from the entry hereof on the docket maintained by the Clerk of this Court or at such later date as may be mutually agreed upon between the Trustee and the Buyer, but in no event later than October 31, 2002 (the "Closing").

22. The transaction described herein is an arms-length transaction between the Buyer and the Trustee. The Buyer has negotiated and acted in good faith in connection with the purchase of the Sale Property. Accordingly, the Buyer is a good faith purchaser of the Sale Property.

NOW, THEREFORE, THE COURT MAKES THE FOLLOWING CONCLUSIONS OF LAW:

- A. This Court has jurisdiction over the subject matter of this Order pursuant to 28 U.S.C. §1344.
- B. The entry of this Order and all proceedings relating thereto collectively constitute a "core proceeding" pursuant to, without limitation, 28 U.S.C. §§ 157(b)(2)(N) and (O).
- C. Notice of the Initial Hearing and the Auction was fair and adequate under the circumstances and complied with 11 U.S.C. § 102(1) and Bankruptcy Rules 2002 and 6004.
- D. The acceptance, execution and performance by the Debtor of the Sale Offer is in the best interests of this estate and its creditors, and complies with the sales procedures authorized pursuant to the Sales Procedures Order.

E. The Buyer is a good faith purchaser for the Sale Property, and the purchase price approved herein was not controlled by any agreement among the potential or actual bidders at the Auction. Accordingly, the Buyer is entitled to the protections of §363(m) of the Bankruptcy Code.

NOW, THEREFORE, IT IS HEREBY ORDERED:

I. The above described findings of fact and conclusions of law be and are hereby incorporated herein as if fully set forth;

II. The Sale Motion be and is hereby granted as provided herein;

III. The Trustee be and is hereby ordered and directed to accept the Final Sale Offer and the Final Sale Offer is hereby approved;

IV. The Trustee shall make the Sale Property available for inspection by all interested parties, including P. DeHaan and the Bank, prior to the Closing;

V. Pursuant to the terms and conditions herein, the Trustee shall sell the Sale Property to the Buyer on an "as is, where is" basis, with no express or implied representations, statements, conditions or warranties of any kind or nature whatsoever, with the Buyer agreeing to pay any and all real estate taxes accruing on the Sale Property and any and all closing costs, including, but not limited to, title commitment fees, transfer taxes, and survey costs;

VI. The Trustee be and is hereby authorized and directed to execute such documents or instruments to transfer title of the Sale Property to the Buyer and such other documents as may be necessary to effectuate the terms and conditions of this Order and the Final Sale Offer, including, but not limited to, the right to direct the Land Trustee to issue a trustee's deed to the Buyer;

VII. The Buyer shall have the benefits and protections of Section 363(m) of the Code;

VIII. Upon Closing, all right, title and interest of the Estate and P. DeHaan in and to the Sale Property and the Appliances shall be deemed transferred to the Buyer free and clear of any and all interests, including, but not limited to, liens, claims, liabilities and encumbrances, and all known, unknown, *choate*, and *inchoate* mechanic's liens against the Sale Property to the fullest extent permitted by sections 363(b), (f), (h) of the Code, without further act or deed;

IX. Upon Closing, any and all valid and enforceable interests in the Sale Property, including but not limited to the Sale Property Interests, shall simultaneously attach to the proceeds of sale pursuant to section 363(f) of the Code without further act or deed;

X. This Court retains jurisdiction to construe and enforce this Order and determine and adjudicate any and all issues arising in connection with the Final Sale Offer; and

XI. This Order is a final non-interlocutory order, provided however that if for any reason this Order, shall be held not to be a final order, this Court expressly determines that there is no just reason for delay and expressly direct the entry of judgment hereon.

ENTER:

Bruce W. Black

U.S. Bankruptcy Judge

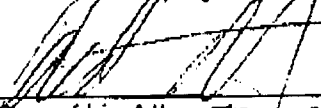
Oct. 16 2002



AGREED TO as of the ___ day of October 2002.

DAVID LEIBOWITZ, not individually, but
as Interim Bankruptcy Trustee

MARK AND AIDA DAHLKAMP

By: 
One of his Attorneys

By: _____
One of their Attorneys

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PATRICIA DEHAAN

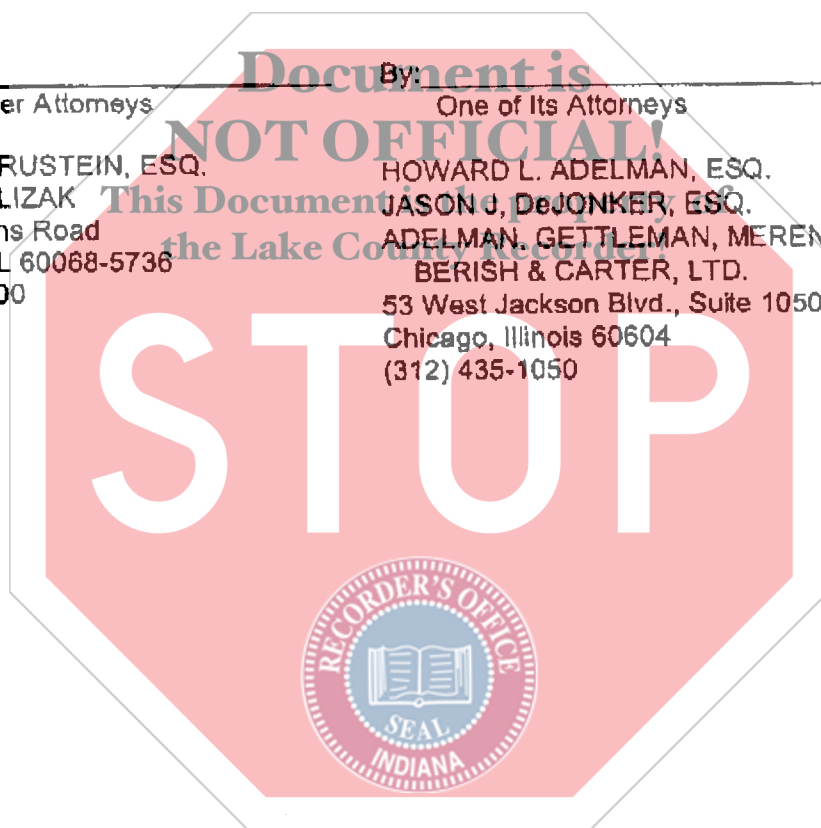
ADVANCE BANK

By: _____
One of her Attorneys

By: _____
One of Its Attorneys

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AGREED TO as of the ___ day of October 2002.

DAVID LEIBOWITZ, not individually, but as Interim Bankruptcy Trustee MARK AND AIDA DAHLKAMP

By: _____ By: _____
One of his Attorneys One of their Attorneys

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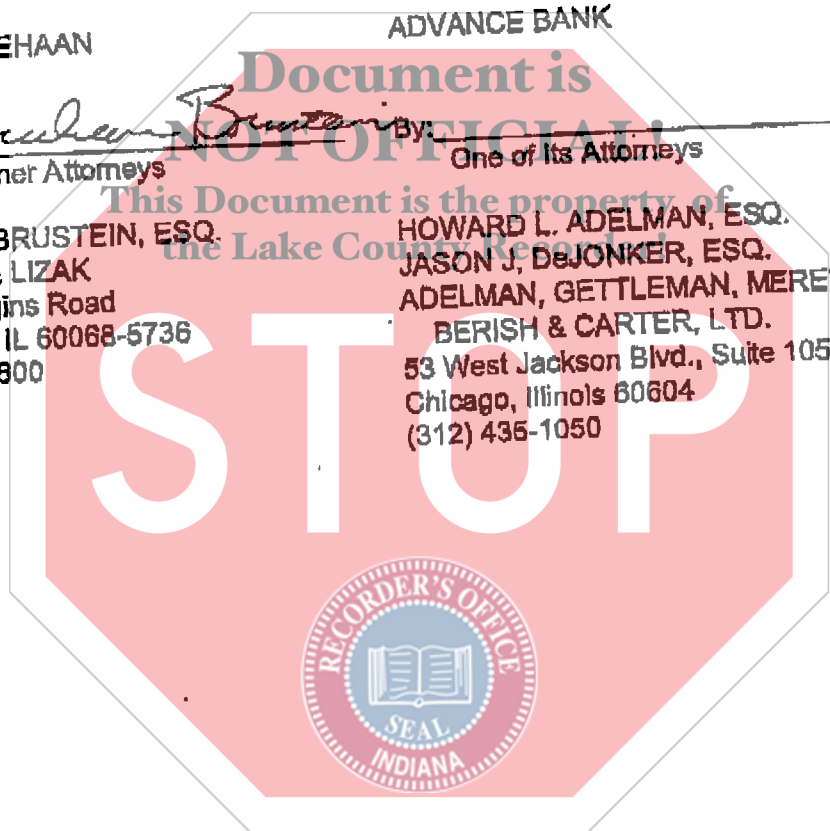
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PATRICIA DEHAAN ADVANCE BANK

By: *Abraham Brustein* By: _____
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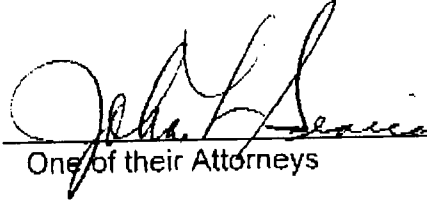


AGREED TO as of the 14 day of October 2002.

DAVID LEIBOWITZ, not individually, but
as Interim Bankruptcy Trustee

MARK AND AIDA DAHLKAMP

By: _____
One of his Attorneys

By: 
One of their Attorneys


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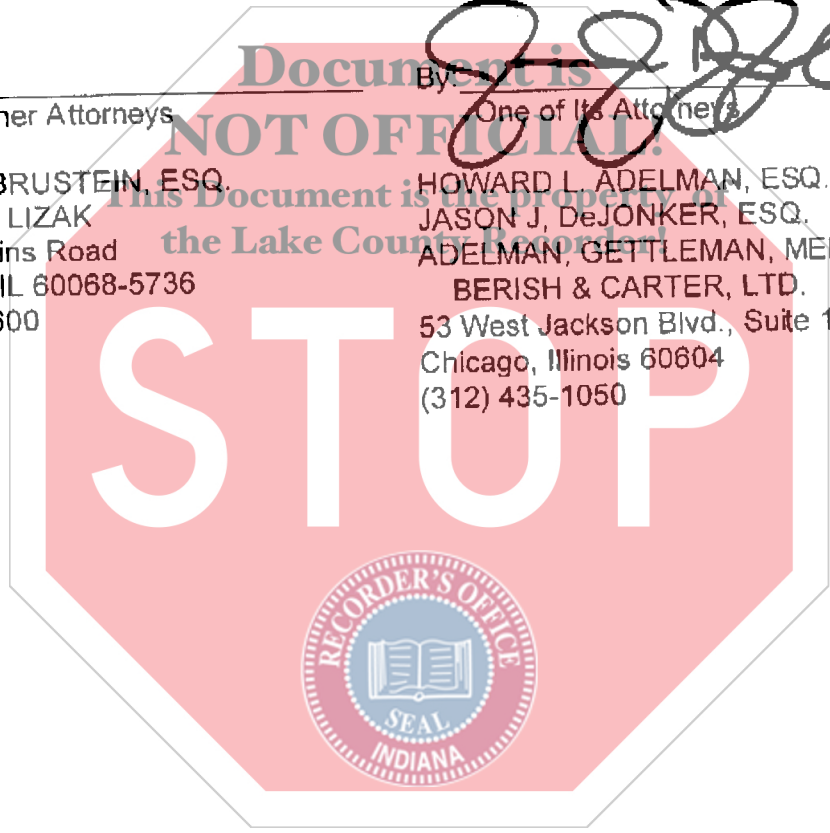


EXHIBIT A
Property Contents

All installed lighting and light fixtures; all plumbing equipment and fixtures; all cabinets; all marble and wood floors; all boxes of marble tiles, wood and associated materials and supplies; all automated garage door openers; all humidifiers; all attic and ceiling fans; all remaining, loose wooden moldings, including all chair rails, baseboards, crown moldings and window casements, whether any of the foregoing materials are actually affixed and installed yet or not, all as identified by all parties as being physically located at the Property as of Thursday, October 3, 2002 at 10:00 a.m.

The following items are specifically *excluded*:

Golf cart, bedroom set mirror and two pictures, gas grill and compressor and any other items not physically located at the Property as of Thursday, October 3, 2002 at 10:00 a.m.

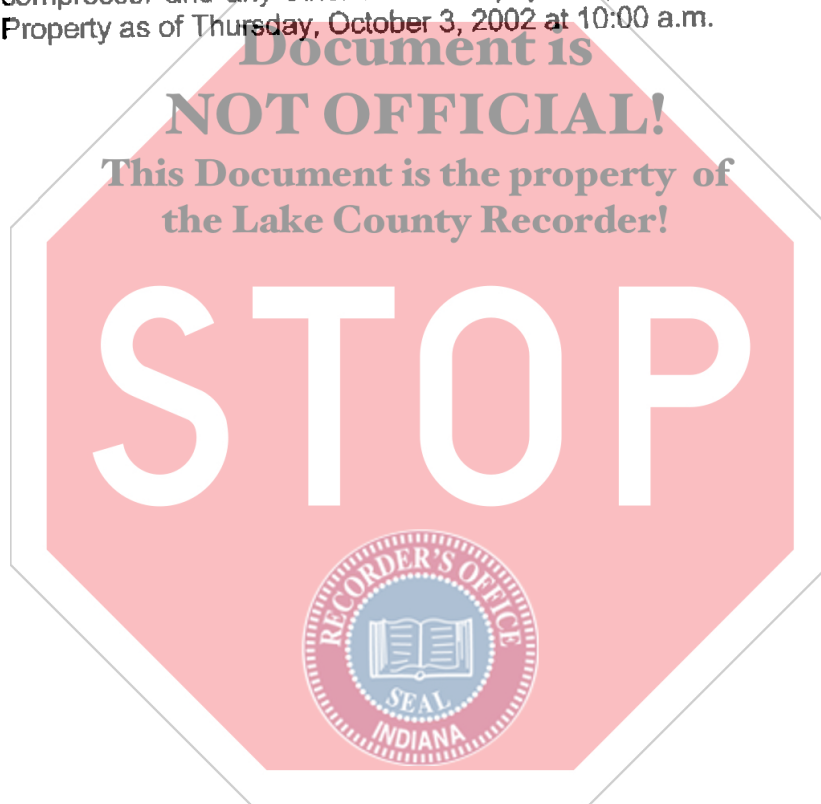


EXHIBIT B
List of Appliances

(2) 36" Refrigerators - stainless steel



EXHIBIT C
Legal Description

LOT 1, IN KERRIGAN WOODS, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 89, PAGE 95, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

