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10 *Attorneys for Brian J. Mullen, Trustee*

11 **IN THE UNITED STATES BANKRUPTCY COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 In re:

14 GORDON GREG EWASIUK,

15 Debtor.

(Chapter 7 Case)

No. 2:22-bk-03290-EPB

**MOTION TO: (1) SELL REAL
PROPERTY OF THE ESTATE FREE
AND CLEAR OF LIENS, CLAIMS,
INTERESTS, AND ENCUMBRANCES;
(2) COMPENSATE REAL ESTATE
BROKER; AND (3) PAY DEBTOR'S
HOMESTEAD EXEMPTION**

Real Property: 9961 E. Winter Sun Drive,
Scottsdale, Arizona 85262

16
17 Brian J. Mullen, Chapter 7 Trustee, by and through counsel undersigned, herein files his
18 *Motion to: (1) Sell Real Property of the Estate Free and Clear of Liens, Claims, Interests, and*
19 *Encumbrances; (2) Compensate Real Estate Broker; and (3) Pay Debtor's Homestead Exemption*
20 *("Motion").*

21
22 The Motion seeks a Court Order authorizing the sale of real property, compensating and
23 reimbursing the Estate's Court appointed real estate broker, and paying Gordon Greg Ewasiuk
24 ("**Debtor**") his reduced homestead exemption consistent with the *Stipulated Motion to Compromise*
25 *Claims of the Estate ("9019 Motion")* being filed contemporaneously herewith. In support of his
26 Motion, the Trustee submits the following Memorandum of Points and Authorities and the entire
27 record of this administrative case.
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2
3 **I. BACKGROUND**

4 1. This case was commenced by an involuntary Petition filed by petitioning creditor Barry
5 Nykyforuk & Associates, Inc. under Chapter 7 of Title 11 of United States Code on May 23, 2022
6 (“**Petition Date**”).

7 2. Brian J. Mullen is the duly appointed and acting Trustee of the Chapter 7 Estate the
8 Chapter 7 Estate (“**Trustee**”).

9 3. Among the assets of this Estate is an ownership interest in real property located at 9961
10 E. Winter Sun Drive, Scottsdale, Arizona 85262 and legally described as¹:
11 Lot 42, MIRABEL VILLAGE 16, according to Book 610 of Maps,
12 Page 2, and Affidavit of Correction as recorded in Document No.
2003-0779712, records of Maricopa County, Arizona. (“**Real
Property**”).

13 4. Debtor alleges he is entitled to a homestead exemption of \$250,000.00 pursuant to A.R.S.
14 § 33-1101(A).

15 5. The Trustee and Barry Nykyforuk & Associates, Inc. (“**Creditor**”) dispute that Debtor
16 is entitled to a homestead exemption on the basis that, *inter alia*, he did not utilize the Real Property
17 as his homestead for the time period necessary prior to the Petition Date. Upon information and
18 belief, Debtor was domiciled in Canada for the time period relevant for establishing a homestead.

19 6. Nonetheless, as more fully set forth in the 9019 Motion², the Trustee and Creditor
20 propose this Motion and combination with the 9019 Motion to resolve the issues surrounding
21 Debtor’s homestead exemption and proceeds derived therefrom.

22 7. Debtor was the sole owner of the Real Property as of the Petition Date³.

23 ¹ The Estate’s interest in the Real Property excludes the Exceptions set forth on Schedule B, Part II of
24 the ALTA Commitment for Title Insurance attached hereto as Exhibit A.

25 ² “**9019 Motion**” refers to the *Stipulation Motion to Compromise Claims of the Estate* filed on March
26 3, 2023 between the Trustee, Debtor, and Mr. Nykyforuk at docket entry 32.

27 ³ Upon information and belief, Debtor acquired the Real Property on or around November 18, 2009 while
28 he was married, but acquired title to the Real Property as “Gordon Ewasiuk (Married)”. Debtor’s now
ex-wife, Wanda Marie Gingerich, does not have an interest in the Real Property. Pursuant to the Property
Settlement Agreement incorporated in their Consent Decree of Dissolution of Marriage attached hereto
as **Exhibit B**, the Real Property was awarded to Debtor as his sole and separate property on or around
September 22, 2021.

1 8. Accordingly, the Real Property is property of the Estate pursuant to 11 U.S.C. § 541(a)
2 and the Trustee may convey the entirety of the Real Property.

3 9. On August 20, 2022, this Court issued an Order appointing Beth Jo Zeitzer of R.O.I.
4 Properties (“**Broker**”) to serve as real estate broker to the Trustee to market and sell the Real
5 Property for the benefit of the Estate. (DCKT. 18).

6 10. Trustee received an offer from Felmass Enterprises, LLC (“**Buyer**”) to purchase the Real
7 Property for a proposed purchase price of \$1,200,000.00, to be paid as follows: (i) \$11,000.00 in
8 earnest money; and (ii) the balance to be paid in cash at closing. The Buyer has deposited the
9 earnest money. A copy of the proposed Sale Contract, Counter Offers, and Addendums are attached
10 hereto as **Exhibit C**.

11 a. Upon information and belief there are additional offers as follows: Garry and Denise
12 Stratychuk; purchase price of \$1.5 million

13 i. \$15,000.00 cash deposit (which has been deposited with Magnus Title
14 Agency. The balance (\$1,485,000.00 would be paid at closing via a hard
15 money loan and is contingent upon a drive-by inspection of the Real
16 Property).

17 b. Chandler: purchase price of \$1.1 million

18 i. \$10,000.00 cash deposit (which has not been deposited with Magnus title).
19 The balance (\$1,000,000.00 would be paid in cash at closing).

20 11. Broker listed the Real Property on or around October 21, 2022 and has held showings
21 since November 2, 2022. The Real Property was initially listed at \$2.3 million and reduced to
22 \$2.1 million on November 10, 2022 after receiving feedback from interested buyers that the Real
23 Property was priced too high given the condition. The feedback from interested buyers included,
24 but was not limited too, that the Real Property had not been maintained, the yard needed
25 landscaping, and the finishes were outdated for a home of this caliber. After not receiving interest
26 at \$2.1 million, the Broker reduced the listing to \$1.9 million to generate more interest and
27 recirculate the listing on MLS.
28

1 12. Based on the Broker's marketing efforts and familiarity with the Real Property and the
2 area surrounding the Real Property, Trustee believes the proposed purchase price is fair and
3 reasonable.

4 13. The proposed escrow agent is Patty Hermosillo with Magnus Title, her email is
5 patty.hermosillo@magnustitle.com and her phone number is 480-339-7030.

6 14. Upon information and belief, Buyer will be able to close the proposed sale within
7 seventeen (17) days of entry of the Order approving this Motion, or sooner if the Trustee and Buyer
8 agree in writing.

9 15. Upon information and belief, the prospective buyers identified above will also be able to
10 close escrow within 17 days of the entry of the Order approving this Motion.

11 **16. Trustee does not make any representations regarding the Real Property.**
12 **Interested buyers must do their own due diligence to determine the extent of the Estate's**
13 **interest in the Real Property.**

14 **17. Prospective purchasers are encouraged to personally inspect/perform their own**
15 **due diligence of the Real Property being sold, as the property will be sold on an "AS IS"**
16 **"WHERE IS" basis, with no warranties, guarantees express or implied.**

17 18. The proposed purchasers are not "insiders" as defined by 11 U.S.C. § 101(31), and the
18 prospective purchasers have no business or other affiliation with Debtor. Accordingly, the Buyer
19 is a good faith purchaser and is entitled to the benefits provided by 11 U.S.C. § 363(m).

20 19. A commission not to exceed five percent (5.0%) ("**Broker's Commission**"), will be
21 paid from escrow to Trustee's Broker on behalf of the Estate, which commission may be shared
22 with a buyer's broker, as is customary in the industry. The Buyer is represented by Rebecca Marvel
23 of ROI and the Seller is represented by Beth Jo Zeitzer of ROI.

24 20. Trustee requests an Order of this Court to pay Broker's Commission, along with the
25 ordinary closing costs, directly from escrow upon closing.

26 21. Trustee is not aware of any other entities holding an interest in the Real Property other
27 than those described herein.

1 22. There have been no requests for relief from the automatic stay in connection with the
2 Real Property.

3 23. The Trustee is not aware of any recent appraisals.

4 **II. LEGAL ANALYSIS**

5 **A. Sale Motion**

6 24. This Court has jurisdiction over Debtor’s Chapter 7 case under 28 U.S.C. § 1334.
7 Proceedings with respect to the Motion are core proceedings that the Court may hear and decide.
8 *See* 28 U.S.C. § 157(b)(1) and (b)(2)(A), (M), (N), and (O). Moreover, venue is appropriate
9 pursuant to 28 U.S.C. § 1408(1).

10 25. Property of the Estate includes “all legal or equitable interests of the debtor in property
11 as of the commencement of the case.” 11 U.S.C. § 541(a). The concept of property of the estate
12 is broad in scope, encompassing all kinds of property, including tangible and intangible property,
13 causes of action, real and personal property, certain property held by the debtor in trust for others,
14 and certain property of the debtor held by others. *See U.S. v. Whiting Pools*, 462 U.S. 198, n.9
15 (1983). The Real Property is property of the Estate.

16 26. Section 363(b)(1) provides in relevant part that “[t]he trustee, after notice and a
17 hearing, may use, sell, or lease, other than in the ordinary course of business, property of the
18 estate . . .” 11 U.S.C. § 363(b)(1). Section 363(f) authorizes a trustee to sell property under
19 Bankruptcy Code § 363(b) “free and clear of any interest in such property of an entity other than
20 the estate” if one of the following conditions is satisfied:

- 21 (1) applicable non-bankruptcy law permits the sale of such property free and
22 clear of such interest;
- 23 (2) such entity consents;
- 24 (3) such interest is a lien and the price at which such property is to be sold is
25 greater than the aggregate value of all liens on such property;
- 26 (4) such interest is in bona fide dispute; or
- 27 (5) such entity could be compelled, in a legal or equitable proceeding, to
28 accept a money satisfaction of such interest.

1 11 U.S.C. § 363(f)(1)-(5).

2 27. Trustee, through this Motion, seeks to effectuate a sale (“**Sale**”) of the Real Property
3 **As-Is, Where-Is, with No Representations, Guarantees, or Warranties**, and free and clear of all
4 liens, claims, encumbrances, and interests in accordance with 11 U.S.C. § 363, with any valid
5 and enforceable liens to attach to the net sale proceeds.

6 28. **The Sale is subject to Bankruptcy Court and Trustee approval**, with any
7 conveyance deed to be executed by the Trustee via a Trustee’s Deed. Trustee is aware of the
8 following liens, claims, encumbrances, or interests in the Real Property:

9 a. **U.S. National Bank Association** – First position deed of trust in the approximate
10 amount of \$650,000.00, accruing, which deed of trust was recorded with the
11 Maricopa County Recorder on November 18, 2009 at recording number 2009-
12 1061711 (and modified by 2019-655251 and 2022-154743) (“**US Bank**”).

13 i. Trustee may sell the Real Property free and clear of US Bank’s lien under 11
14 U.S.C. § 363(f)(3) because the sale proceeds will be sufficient to pay it in
15 full out of escrow.

16 b. **Utilities** – A Utility Lien held by the City of Scottsdale in the approximate amount
17 of \$698.46. Upon information and belief, this has been paid in full. (*See* 2022-
18 0720698 recorded with the Maricopa County Recorder’s Office). The sale is subject
19 to any utilities or service assessments, including but not limited to water rights,
20 easements, restrictions, reservations, conditions, and set back lines as more fully
21 set forth in Schedule B, Part II – Exceptions of the Commitment for Title Insurance
22 attached hereto as **Exhibit A**¹.

23 i. The Trustee may sell the Real Property free and clear of Utilities pursuant to
24 11 U.S.C. § 363(f)(3) because upon information and belief there are no funds
25 owing, but in the event there are the Trustee anticipates having sufficient
26 funds to pay in full at closing.

27 _____
28 ¹ Trustee makes no representations or warranties about the contents of the Commitment for Title Insurance.

- 1 ii. To the extent that the Broker incurs any additional charges for payment of
2 necessary utilities, they shall be reimbursed to Broker at closing by title and
3 any such funds shall be deducted from Debtor's Homestead Exemption.
- 4 c. **ATB Financial Judgment Lien** – ATB Financial holds a judgment lien in the
5 approximate amount of \$3,392,523.87, which was recorded with the Maricopa
6 County Recorder on May 10, 2019 at recording number 2019-340881 (“**ATB**”).
- 7 i. Trustee may sell the Real Property free and clear of ATB's lien under 11
8 U.S.C. § 363(f)(2) because it consents to the sale.
- 9 d. **Wanda Marie Gingerich (fka Wanda Marie Ewasiuk)** – Pursuant to the
10 September 22, 2021 Consent Decree of Dissolution of Marriage, the Real Property
11 was awarded to Debtor as his sole and separate property. As Ms. Gingerich has no
12 interest in the Real Property, upon the entry of an Order approving this sale, the
13 Trustee may execute a Trustee's Deed to the successful buyer transferring 100% of
14 the Real Property.
- 15 i. The Trustee may sell the Real Property free and clear of Ms. Gingerich's
16 interest pursuant to 11 U.S.C. § 363(f)(4) because upon information and belief
17 the interest is subject to a bona fide dispute (indeed, she has no interest in the
18 Real Property).
- 19 e. **Maricopa County Treasurer** – Upon information and belief, real property taxes
20 are approximately \$2,848.93.
- 21 i. Trustee may sell the Real Property free and clear of any real property taxes
22 under 11 U.S.C. § 363(f)(3) because the contemplated sale proceeds will be
23 sufficient to pay any real property taxes in full at closing.
- 24 f. **HOA** - Montecito at Mirabel Property Owners Association, Inc. (“**HOA**”) is owed
25 approximately \$16,775.86. (POC 1-2).
- 26 i. Trustee may sell the Real Property free and clear of the HOA's interest under
27 11 U.S.C. § 363(f)(3) because the sale proceeds will be sufficient to pay it
28 in full out of escrow.

1 g. **Debtor** – Homestead Exemption in the amount of \$250,000.00 (as modified by a
2 9019 Order, subject to this Court’s approval).

3 i. The Trustee may sell the Real Property free and clear of Debtor’s Homestead
4 Exemption pursuant to 11 U.S.C. § 363(f)(3) because Debtor will receive his
5 modified Homestead Exemption as more fully set forth below and as
6 approved by this Court consistent with an Order approving the 9019 Motion.

7 29. Consistent with the 9019 Motion, this Motion proposes to make the following
8 distributions from the sales proceeds:

9 a. **First** – US Bank

10 i. US Bank shall be paid in full at closing pursuant to a payoff it provides to title.

11 b. **Second** – Maricopa County Treasurer

12 i. Any and all real property taxes shall be paid in full at closing pursuant to a
13 payoff provided to title.

14 c. **Third** – HOA

15 i. The HOA shall be paid in full at closing pursuant to a payoff it provides to
16 title at closing.

17 d. **Fourth** – Closing Costs

18 i. Broker’s commissions in the amount of 5% of the sales price shall be paid
19 directly to Broker (and co-broker) at closing.

20 e. **Fifth** - Debtor’s Homestead Exemption of \$250,000.00

21 i. From Debtor’s Homestead Exemption, title shall remit funds as follows:

22 1. **Insurance of \$4,820.52.** Any and all Insurance costs incurred by the
23 Estate for the benefit of the Real Property. As of December 28, 2022,
24 the total Insurance costs were \$4,820.52 (which is subject to a finance
25 charge of 7%). Undersigned shall provide a payoff for the Insurance to
26 title at closing and title shall pay any Insurance costs directly to the
27 Insurance provider at closing;

28 2. **Utilities of \$3,249.53.** Any and all utilities or costs incurred by

1 Broker for the benefit of maintaining the Real Property¹. Title shall
2 pay the foregoing directly to Broker at closing consistent with an
3 updated invoice. To the extent Broker incurs any additional charges
4 for payment of necessary utilities, Debtor consents to such funds being
5 deducted from his Homestead Exemption²;

6 3. **Maintenance of \$2,000.00.** After listing the Real Property, Debtor
7 failed to maintain the Real Property, causing the HOA to issue
8 violation notices. The appearance of the Real Property also deterred
9 possible buyers (indeed, buyers commented on the Real Property's
10 lack of maintenance and landscaping and noted it as a reason they were
11 not interested). Broker incurred costs of \$2,000.00 to clean up the
12 landscaping at the Real Property. Title shall pay the foregoing directly
13 to Broker at closing consistent with proof of payment;

14 4. **\$30,000.00 Settlement of Estate Claims consistent with 9019.** Title
15 shall remit the sum of \$30,000.00 to the Trustee at closing consistent
16 with the 9019 Motion .

17 5. Debtor consents to title holding his Reduced Homestead Exemption
18 until he has vacated the Real Property. Debtor will vacate the Real
19 Property prior to closing and/or consistent with an Order approving the
20 sale.

21 6. Given the foregoing, the Parties anticipate Debtor will receive a
22 Homestead Exemption from title at closing in the approximate amount
23 of \$209,929.95 ("**Reduced Homestead Exemption**"). Title shall pay
24 Debtor's Reduced Homestead Exemption to Debtor at closing.

25 ¹ Upon information and belief, the City of Scottsdale recorded a utility lien with the Maricopa County
26 Recorder's Office at document number 2022-720698 for delinquent fees of \$968.46. Upon information
27 and belief, Broker has now paid any and all outstanding monies owed to the City of Scottsdale.

28 ² Debtor has asserted that he lacks the funds to currently pay his outstanding electricity bill and has been
informed it will be shut off. To prevent the power from being shut off, the Broker will pay any such bill
directly to the appropriate authority and will be reimbursed from Debtor's homestead funds.

1 f. **Sixth** – ATB

- 2 i. All funds remaining after payment of the above shall be attributed to ATB’s
3 lien; the Estate estimates this to be in the approximate amount of \$184,375.21
4 (“**ATB Funds**”).
- 5 ii. Mr. Nykyforuk agrees title may remit to the Trustee the sum of \$35,000.00
6 from the ATB Funds to be used to compensate the Trustee pursuant to 11
7 U.S.C. § 326¹ and attorney fees to Lane & Nach, P.C. (subject to Bankruptcy
8 Court approval).
- 9 iii. The balance of the ATB Funds shall be remitted to Mr. Nykyforuk at closing
10 for ultimate distribution in the Debtor’s Canadian bankruptcy proceeding.
11 Counsel for Mr. Nykyforuk shall provide payment instructions to title at
12 closing.
- 13 iv. In exchange for the ATB Funds, ATB, through Mr. Nykyforuk, agrees to
14 release the ATB Lien at closing in full satisfaction of the ATB Lien. ATB
15 shall retain all rights and remedies for any deficiency against the Debtor in
16 this Estate and shall be allowed to file a Proof of Claim consistent herewith
17 (subject to the Trustee’s review). ATB shall retain any rights or remedies it
18 may have against third parties.
- 19 v. Evan Schube, counsel for Mr. Nykyforuk has discussed this Motion with
20 counsel for ATB, Tom Gusa (who is a Canadian attorney) and indicated that
21 ATB consents to the terms of this Motion.

22 30. Trustee believes that consummation of the Sale is in the best interest of the Estate. The
23 Sale has been negotiated at arm’s length and in good faith.

24 31. A trustee must demonstrate a sound business justification for a sale or use of assets
25 outside the ordinary course of business. *E.g., In re Continental Air Lines, Inc.*, 780 F.2d 1223,
26 1226 (5th Cir. 1986). Courts look to various factors to determine whether to approve a motion

27 _____
28 ¹ The Trustee will voluntarily reduce his commission, which he expects to request in the approximate amount of \$13,500.00.

1 under section 363(b), such as: (i) whether a sound business reason exists for the proposed
2 transaction; (ii) whether fair and reasonable consideration is provided; (iii) whether the
3 transaction has been proposed and negotiated in good faith; and (iv) whether adequate and
4 reasonable notice is provided. *In re Condere*, 228 B.R. 615, 626 (S.D. Miss. 1998).

5 32. The Trustee believes in his best business judgment that the prospective sale will
6 generate funds for the benefit of the creditors of this Estate and is in the best interest for all creditors
7 and parties-in-interest. The sale will be conducted via public auction to be conducted at a hearing
8 on this Motion and will be subject to higher and better bids. Further, based on the current real estate
9 market, the length of marketing time, and other sale transaction in the area, the Trustee believes the
10 sale price represents the fair market value of the Real Property. Therefore, the Trustee believes the
11 Sale represents sound exercise of the Trustee's business judgment.

12 33. Pursuant to Local Rule 6004-1, Trustee must file a motion and, after notice, obtain an
13 Order approving a sale outside the ordinary course of business if the property being sold is expected
14 to have a value greater than \$2,500.00.

15 **A. BIDDING PROCEDURES**

16 34. While the Trustee is prepared to consummate the Sale with the buyer, he is also
17 interested in obtaining the maximum price for the Real Property. Therefore, the proposed sale
18 is subject to higher and better bids to be solicited at a hearing on the Motion to be set by this
19 Court and noticed by undersigned counsel.

20 35. Any person interested in submitting a higher and better offer must attend the hearing
21 on this Motion and submit a \$11,000.00 earnest money deposit to the Broker (as more fully set
22 forth above) within 1 day of the hearing. The \$11,000.00 deposit shall be a certified check made
23 payable to "Brian J. Mullen, Trustee" and is refundable. Trustee further requests that any
24 interested bidder should be required to provide documentation to undersigned counsel that in the
25 event they were the successful bidder, they would be able to close on the Real Property as
26 contemplated herein.

27 36. Trustee seeks authority to execute any documentation necessary to carry out the
28 provisions of this Motion and requests that the Order act as a release of all liens, credit lines, and

1 assessments against the Real Property, which may be recorded with the applicable county for this
2 purpose, with all valid and enforceable liens, encumbrances, and interests to attach to the Sale
3 proceeds.

4 37. In the Ninth Circuit, a purchase is not in good faith only if the purchaser acts with
5 unclean hands, engages in fraud, collusion, or attempts to take grossly unfair advantage of other
6 bidders. *In re Onouli-Kona Land Co.*, 846 F.2d 1170, 1173 (9th Cir. 1988). Upon information
7 and belief, neither Buyer nor Back-Up Bidder have unclean hands and did not collude with the
8 Trustee to propose the Sale. Moreover, the Sale is subject to higher and better bids at Sale
9 hearing.

10 38. Upon information and belief, neither Buyer nor any other prospective purchaser(s)
11 identified above have any known business or other affiliation with the Debtor. Therefore, Buyer
12 is a “good faith purchaser” and is entitled to the benefits provided by 11 U.S.C. § 363(m) and
13 therefore 11 U.S.C. § 363(m) is applicable.

14 39. Trustee requests this Court’s authorization to treat any and all distributions through
15 the close of escrow as a distribution for purposes of the Trustee calculating his commission
16 pursuant to 11 U.S.C. § 326 (as modified by a 9019 Order).

17 40. Trustee requests that Debtor be directed to depart from the Real Property on or before
18 the date of closing.¹ Notwithstanding the foregoing, the successful buyer will take the Real
19 Property as-is and subject to any occupant occupying the Real Property. Buyer and the other
20 prospective purchaser(s) identified above understand and acknowledge that they will take the
21 Real Property subject to the occupancy of any inhabitant.

22 41. Trustee further requests that the Court direct Debtor to remove any personal property
23 from the Real Property on or before the date of closing, or at a later date if agreed to by Trustee
24 and the successful buyer in a written and signed agreement. Any personal property remaining on
25 the Real Property after closing shall be deemed non-exempt property of the Estate to be
26 transferred to the successful Buyer and the Trustee makes no representations, warranties, or

27
28 ¹ The sale is an as-is, where-is sale, and buyer is obligated to close on the sale regardless of whether
Debtor departs from the Real Property prior to the closing date.

1 guaranties to the successful buyer as to the personal property. The successful buyer shall assume
2 all risk of transfer or lack thereof, of the personal property that remains at the Real Property after
3 expiration of the Debtor's right to remove the personal property.

4 WHEREFORE, Brian J. Mullen, Trustee prays for an Order of this Court as follows:

- 5 A. Granting Trustee's Motion;
- 6 B. Authorizing the sale of the Real Property "as is" / "where is" with no warranties
7 express or implied, free and clear of liens, claims, and interests, to anyone
8 submitting the highest and best offer;
- 9 C. Determining that the successful bidder (Buyer or the other prospective
10 purchaser(s)) is a good faith purchaser and is entitled to the benefits provided by
11 11 U.S.C. § 363(m);
- 12 D. Authorizing the payment of US Bank, real property taxes, the HOA, closing costs,
13 including Broker's commission, Debtor's Homestead Exemption (as modified
14 herein), utilities, ATB's lien (as modified herein) directly from escrow upon
15 closing, reimbursements to Broker, reimbursements for Insurance, and all funds
16 owed to the Estate;
- 17 E. Authorizing the sale to close within seventeen calendar days of the entry of an
18 Order approving the sale, or on a date agreed to by the buyer and Trustee;
- 19 F. The successful buyer's earnest money shall be applied to the approved purchase
20 price;
- 21 G. Authorizing the Trustee to treat any and all distributions (except Debtor's
22 Homestead Exemption) through the close of escrow as a distribution for purposes
23 of the Trustee calculating his commission pursuant to 11 U.S.C. § 326 (as
24 modified by the 9019 Motion);
- 25 H. Approving the bidding procedures set forth herein;
- 26 I. Authorizing the Trustee's to transfer the Real Property via a Trustee's Deed;
- 27 J. Authorizing the Trustee to accept sales proceeds;
- 28 K. Authorizing the Trustee to execute all additional documents and perform other

1 such acts as may be necessary or reasonably requested to facilitate and complete
2 the transaction. Prior to disbursing any funds, title shall provide a copy of the
3 proposed settlement sheet to the Trustee and his counsel for review and approval;
4 L. Waiving the 14-day stay of Fed.R.Bank.P. Rule 6004(h); and
5 M. For such other and further relief as this Court deems just and proper.

6 RESPECTFULLY SUBMITTED this 13th day of March, 2023.

7 **LANE & NACH, P.C.**

8
9 By: /s/ Adam B. Nach
10 Adam B. Nach
11 Helen K. Santilli
12 *Attorneys for Trustee*

13 **Approved as to form and content:**

14 **TIFFANY & BOSCO, P.A.**

15 /s/Evan Schube (with permission)
16 Evan P. Schube
17 *Counsel for Barry Nykyforuk & Associates, Inc.*

18 **GORDON GREG EWASIUK**

19 /s/ Gordon Greg Ewasiuk (with permission)
20 Gordson Greg Ewasiuk
21 *Debtor*

1 A COPY of the foregoing delivered via first class mail or electronic mail*:

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As Nominee for U.S. Bank, its Successors and
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5 Mesa, Arizona 85215
6 Email: ashley@goodlaw.legal

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20 John Chandler
21 c/o Zeljok Minic
22 Next Home City to City
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24 Phoenix, Arizona 85251
25 Email: zeekminic@gmail.com
26 *Interested Buyer Agent*

27 By: /s/ S. Rochin
28

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