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10 *Attorneys for David A. Birdsell, Trustee*

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

13 In re:

14 CYNTHIA MARIE NELSON,

15 Debtor.

(Chapter 7 Case)

No. 2:20-bk-11534-DPC

**NOTICE TO CREDITORS AND
INTERESTED PARTIES OF PUBLIC
AUCTION OF ESTATE'S INTEREST IN
PERSONAL PROPERTY**

AND

**NOTICE OF MOTION TO SELL
ESTATE'S INTEREST IN NOTE AND
DEED OF TRUST AND APPROVE
BIDDING PROCEDURES**

16 **NOTICE OF AUCTION**

17 **NOTICE IS GIVEN** that the Estate's interest in the below-described personal property will be
18 offered to the person making the highest and best bid at public sale by David A. Birdsell, Chapter
19 7 Trustee ("**Trustee**") on Friday, **January 31, 2025**, at **8:30 a.m.**, by telephone, by dialing 1(310)
20 372-7549 wait for prompt – ACCESS CODE # 831482 then press #.

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| Property to be Sold: | The Estate's interest in the following personal property (" Property "): The September 14, 2022 Promissory Note in the principal balance of \$94,614.72 (" Note "). The maker is Cynthia Marie Nelson, an unmarried woman. The holder of the Note is David A. Birdsell, Chapter 7 Trustee of the Bankruptcy Estate of Cody James Nelson, case number 2:20-bk-11534-DPC. The Note is secured by a Deed of Trust recorded with the Maricopa County Recorder on November 11, 2022 at document number 2022-0817268. The Estate's interest in the Note and Deed of Trust are being sold together. |
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| | <p>The Note is secured by a Deed of Trust encumbering the real property located at 1886 E. Watson Drive, Tempe, Arizona 85283 (“Property”). Upon information and belief, the Real Property is subject to the following encumbrances in the following priority:</p> <table border="1" data-bbox="584 388 1550 525"> <tr> <td data-bbox="584 388 1266 483">Mortgage Electronic Registration Systems, Inc. solely as nominee for the Lend Smart Mortgage, LLC</td> <td data-bbox="1266 388 1550 483">First</td> </tr> <tr> <td data-bbox="584 483 1266 525">Estate’s Note and Deed of Trust</td> <td data-bbox="1266 483 1550 525">Second</td> </tr> </table> <p>As of the filing of this Notice, the Trustee has received payments of \$45,400.00.</p> <p>Copies of the Note and Deed of Trust are attached as Exhibits A and B to the Motion and are available upone written request to helen.santilli@lane-nach.com.</p> <p>Any payments received between the filing of this Motion and the close of the contemplated sale shall be retained by the Estate and applied to the balance of the Note. Any payments the Estate receives after the close of the contemplated sale shall be property of the buyer.</p> | Mortgage Electronic Registration Systems, Inc. solely as nominee for the Lend Smart Mortgage, LLC | First | Estate’s Note and Deed of Trust | Second |
| Mortgage Electronic Registration Systems, Inc. solely as nominee for the Lend Smart Mortgage, LLC | First | | | | |
| Estate’s Note and Deed of Trust | Second | | | | |
| Terms of Sale: | <p>Interested buyers must do their own due diligence to determine the extent of the Estate’s interest in the Note and Deed of Trust. Prospective purchasers are encouraged to personally inspect/perform their own due diligence of the Estate’s interest in the Note and Deed of Trust being sold, as the property will be sold on an “AS IS” “WHERE IS” basis, with no warranties, guarantes express or implied.</p> <p>Sale may be subject to sales tax unless the property being sold is tax-exempt or a resale number is used as proof of exemption. The purchaser will be provided an Assignment of the Estate’s interest in the Property. <i>All sales are subject to Trustee’s approval.</i></p> <p>If a party bids, that party is liable for the bid amount. A bidder may not withdraw his or her bid and if the successful bidder fails to pay the successful bid amount, the Estate will seek payment from the back-up bidder, if any, no exceptions. Moreover, the bidder that failed to pay will be liable for any difference in the amount bid and the amount collected. The Trustee shall also accept a backup bid.</p> | | | | |
| Proposed Purchaser: | <p>The Trustee has obtained an offer to purchase the Estate’s interest in the Note and Deed of Trust from Matt Clark or his nominee (“Proposed Buyer”) for a purchase price of \$10,000.00 (“Offer”). The Proposed Buyer shall pay the Offer in full within five calendar days of the sale.</p> <p>Proposed Buyer has made its offer on an “AS-IS”, “WHERE-IS” basis and is taking the Estate’s interest in the Note and Deed of Trust without guaranties, warranties, or representations.</p> <p>The Sale is subject to Trustee’s final approval.</p> | | | | |

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| | The successful bidder shall remit payment to the Trustee within 5 calendar days of the sale. The funds may be a cashier's check, money order, or personal check and should be made payable to "David A. Birdsell, Estate of Nelson". Offers are subject to higher and better bids. |
| Insider: | The proposed purchaser is not an insider. |
| To Obtain More information: | Contact Helen K. Santilli, attorney for the Trustee, (602) 247-8574 or helen.santilli@lane-nach.com. |
| Description of Interest(s) in the Property: | The Trustee is unaware of any liens, claims, or interests encumbering the Estate's interest in the Property. <u>The Estate's Interest in the Property is being sold as-is, where-is, with no representations, guarantees, or warranties.</u> |
| Appraisals: | The Trustee is not aware of any recent appraisals on the scheduled interest in the Property being sold. |
| Compensation/Fees: | There are no broker's fees/compensation related to this sale. |
| Motions for stay relief: | There have been no motions for stay relief filed regarding the interest in the Property. |

NOTICE OF MOTION

NOTICE IS FURTHER GIVEN that on November 27, 2024, the Trustee filed a *Motion to Sell Estate's Interest in Note and Deed of Trust* seeking to sell the Estate's interest in the Note and Deed of Trust. Any person opposing the sale shall file a written objection, specifying the reason therefor, together with a notice of hearing, on or before twenty-one (21) days of the date of this mailing as follows: United States Bankruptcy Court, as follows: (a) by hand-delivery or mail to the Clerk of the Court, 230 North First Avenue, Suite 101, Phoenix, Arizona 85003-1706; or (b) electronically at the Court's website: ecf.azb.uscourts.gov using the Court's electronic filing procedures, with a copy to: Lane & Nach, P.C., at the above-address. If a person timely objects in writing and a hearing is requested but has not yet been conducted by the Court as of the date of the scheduled auction, bids will be taken and the normal sales procedures followed. The closing of the sale remains dependent upon the outcome of the Court hearing regarding the objection. **If there is no timely objection and request for hearing, no hearing will be held, and the Trustee will proceed to sell the Property without further order of the Court.**

RESPECTFULLY SUBMITTED this 27th day of November, 2024.

LANE & NACH, P.C.

By /s/ Adam B. Nach
Adam B. Nach
Helen K. Santilli
Attorneys for Trustee

1 COPY of the foregoing delivered via first class mail to:

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3 Lend Smart Mortgage, LLC
3450 Lexington Ave. N, Ste. 210
4 Shoreview, MN 55126

Lend Smart Mortgage, LLC
c/o Incorp Services, Inc.
8825 N. 23rd Ave., Suite 100
Phoenix, AZ 85021

5 Lend Smart Mortgage, LLC
6 Attn: Scott Flaherty, CEO
6401 Sherwood Ave.
7 Edina, MN 55345
Email: SFlaherty@lendsmartmortgage.com

MERS
P.O. Box 2026
Flint, MI 48501

8 MERS
1901 E. Vorhees Street, Suite C
9 Danville, IL 61834

Mortgage Electronic Registration Systems,
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
10 Wilmington, DE 19801

11 Mortgage Electronic Registration Systems,
Inc.
12 c/o The Prentice-Hall Corporation system,
Inc.
13 251 Little Falls Drive
14 Wilmington, DE 19808

Clerk of the Superior Court
Juvenile Division
P.O. Box 21086
Phoenix, AZ 85036

15 Maricopa County Assessor
301 W. Jefferson Street, Suite 330
Phoenix, AZ 85003
16 Office of U.S. Trustee
230 North First Avenue
17 Phoenix, AZ 85003
Email: Larry.Watson@usdoj.gov
18 Email: ustpreion14.px.ecf@usdoj.gov

Maricopa County Recorder
111 S. 3rd Ave., #102
Phoenix, AZ 85003
19 Stuart D. Gavzy
8171 E. Del Barquero Dr.
Scottsdale, AZ 85258
Email: Stuart@Gavzylaw.com
Attorney for Debtor

19 Matthew Clark
20 Email: mclark@3rdgenrealty.com

All parties on the attached Master Mailing
Matrix.¹

21 By: /s/ Danica Acosta

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28 ¹ A copy of the Master Mailing Matrix shall not be mailed with this Notice. Any party interested in a
copy of the Master Mailing Matrix may obtain a counsel by requesting it from Trustee's counsel via
email at helen.santilli@lane-nach.com.