

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN RE:

DANIEL MELVIN PITTNER and
NANCY ELLEN PITTNER,

CASE NO.: 09-1863

Debtor(s)/

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL
REAL PROPERTY OF THE ESTATE**

The attached motion has been filed with the Bankruptcy Court. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)

If you want the court to consider your views on this matter, attend the hearing scheduled for **OCTOBER 14, 2009 at 10:00 a.m.** at the United States Bankruptcy Court, Federal Building, US Courthouse, Room 114, 410 W. Michigan Ave., Kalamazoo, Michigan.

You or your attorney may wish to file a response explaining your position. Such response should be **received** at least five (5) business days prior to the scheduled hearing. A copy should also be served upon the party who has filed the motion and to his/her attorney.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Notice and Motion returned to Stephen Langeland, Esq. for service on matrix (9-17-09-11)



Dated: September 17, 2009

DANIEL M. LAVILLE
CLERK OF BANKRUPTCY COURT

/s/

BY: Linda Lane, Deputy Clerk

NOTICE IS HEREBY GIVEN that the court may, in its discretion, orally continue or adjourn the above hearing on the record in open court. If this occurs, parties in interest will not be given further written notice of the new hearing date. If an entity is not present at the originally scheduled hearing, information regarding the time, date and place of an orally continued or adjourned hearing may be accessed through the Bankruptcy Court's web site (www.miwb.uscourts.gov) provided the person has a PACER login and password, or by visiting the Clerk's Office of the United States Bankruptcy Court located at One Division Avenue North, 2nd Floor, Grand Rapids, Michigan 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 5:00 p.m. Monday through Friday, CST at (800) 676-6856 or via its web site at <http://pacer.pcs.uscourts.gov>.

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

In Re:

DANIEL MELVIN PITTNER and
NANCY ELLEN PITTNER,

Case No.: 09-01863
Chapter 7
Hon.: Scott W. Dales
Filed: February 24, 2009

Debtor (s) /

MOTION FOR AUTHORITY TO SELL REAL PROPERTY OF THE ESTATE

NOW COMES Stephen L. Langeland, Trustee, moves for a sale of real property of the estate pursuant to 11 U.S.C. §363 as follows:

1. He is the duly appointed and acting Chapter 7 Trustee in this case filed under Chapter 7 on February 24, 2009.
2. Included in the property of this estate is a debtor's undivided one half (½) interest in a parcel of real property located at 701 Kay Street, Otsego, MI 49078 ("Real Property").
3. The Property is owned jointly by the debtors and James E. Pittner, who is not a debtor in this case.
4. The Trustee has received an offer to purchase the real estate from Janet L. Wessel for the sum of FIFTY-FIVE THOUSAND AND NO/100 DOLLARS (\$55,000.00) cash subject to a buy and sell agreement, a copy of which is attached hereto.
5. James E. Pittner has consented to the sale of the Property.
6. That it is in the best interest of this estate and its creditors that the said real property be offered for sale at public auction in open court at the earliest possible date, subject to the following terms and conditions:

A) PROPERTY: The real property is located at 701 Kay Street, Otsego, MI 49078 and are legally described as follows:

PROPERTY LOCATED IN THE CITY OF OTSEGO, COUNTY OF
ALLEGAN, STATE OF MICHIGAN, AND DESCRIBED AS:

LOT 1, BLOCK 4, HOWARD C. YOUNG'S ADDITION TO THE CITY
OF OTSEGO, ACCORDING TO PLAT THEREOF.

B) BIDDING: Bidding will commence with the bid of Janet L. Wessel in the amount of \$55,000.00 with subsequent bids in increments of not less that \$1,000.00.

Sale shall be on a cash basis, with the successful bidder, other than Janet L. Wessel being required to make a non-refundable deposit with the Trustee in the sum of \$2,500.00 in cash or certified funds at the conclusion of the bidding in open court. No contingent bids shall be received. Closing shall take place as soon as possible at a date mutually agreed upon by the Trustee and the Purchaser, and the total balance of the bid price shall be paid at closing. In order to expedite closing as soon as possible, the stay provisions of Fed.R.Bankr.P.6004(g) shall be set aside as null and void.

Any prospective bidder must submit evidence of financeability in the form of bank letter of credit or letter confirming loan approval to the Trustee no later than three (3) days prior to the sale date in order to qualify to bid at the sale.

C) TERMS: The real property will be sold on an "as is," "where is" basis, without representation or warranty, express or implied, of any kind, nature or description including, but not limited to, any warranty about description or marketability, merchantability, or usability or a fitness for any purposes.

The Trustee shall not be required to inspect or test or report on the condition of the real property or the operability of the real property or the existence of any possible defects in the real property.

All real estate taxes which are a lien against the described real property shall be paid out of the sale proceeds as an expense of sale. Any tax which becomes a lien on said real property after the date of sale shall be paid by the purchaser, and the 2009 real estate taxes shall be prorated to the date of closing. The purchaser will receive title insurance. The sale shall be consummated by the delivery to the purchaser of a Trustee's Deed without warranty of title.

The described real property shall be sold free and clear of all liens, encumbrances, and/or claims therein, with said liens, encumbrances, and/or claims attaching to the sale proceeds, in the same order of validity, rank, and priority as now exists in the said real property. The Trustee is not aware of any liens, claims, and encumbrances attaching to the Real Property except delinquent real property taxes, and water and sewer bills and assessments which will be paid at closing.

The expenses of custody, cleaning, repairing, removal of personalty, protection, insurance of the real property, as well as expenses of the sale, including administrative and all legal expenses of these proceedings relating to the protection and sale of said real property shall be charged against the sale proceeds with priority over all claims.

D) REALTORS COMMISSION: The offer which the Trustee has received is subject to a commission of ten percent (10%) plus an administrative fee of \$325.00 to be paid to Re-Max Advantage, Realtor and any realtor entitled to a

dual agency fee, conditioned on the consummation of the sale.

E) DISTRIBUTION OF PROCEEDS: One half (½) of the net sale proceeds shall be paid to James E. Pittner at closing, after payment of liens, taxes, costs and expenses of preservation of the estate, and expenses of sale, Pursuant to 11 U.S.C Section 363(j).

F) INSPECTION: Arrangements for inspection of the real property to be sold can be made by contacting Roxanne Cantu, Re-Max Advantage, Realtor, 7127 South Westnedge Avenue, Portage, Michigan 49002, telephone 269/329-1053.

7. Any person objecting to the validity, proprietary or legality and/or having any objection of any kind to the sale as described herein, shall file a written objection to the sale on or before five (5) business days before the date set for the hearing on this Motion and simultaneously serve copies on the attorney for the Trustee and the Trustee at the address listed in this Motion and, in accordance with Federal Rule of Bankruptcy Procedure 6004(b).

8. The Trustee reserves the right to withdraw this Motion at any time prior to completion of the hearing thereon.

9. The Trustee requests that the Notice of Hearing and a copy of the Motion be served by ordinary mail upon the following persons:

Stephen L. Langeland, 6146 W. Main Street, Suite C, Kalamazoo, Michigan 49009;
Office of the U.S. Trustee, The Ledyard Building, 125 W. Ottawa Ave., 200R, Grand Rapids, Michigan, 49503;
Roxanne Cantu, Re-Max Advantage, Realtor, 7127 S. Westnedge Avenue, Portage, MI 49002;
Janet L. Wessel, c/o Re-Max Advantage, Realtor, 7127 S. Westnedge Avenue, Portage, MI 49002;
Daniel and Nancy Pittner, 8689 US Highway 31, Apt. 111, Berrien Springs, MI 49103-9533
Kimberly S. Royster, 648 Monroe NW, Suite 315, Grand Rapids, MI 49503-1453

WHEREFORE, the Trustee requests that this Court enter an Order Confirming Sale of the within real property as set forth above, to Janet L. Wessel for the sum of (\$55,000.00) or to such other purchaser for such additional sums as may be bid at the hearing in open Court, that Stephen L. Langeland, Trustee be authorized to take such steps, make such payments, and execute such documents as reasonably necessary to implement and effectuate said sale, and that the Court grant such further relief as may be just and equitable under the circumstances.

Dated: 9-11-09


Stephen L. Langeland, Trustee