

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

IN RE:

MARK E. WOLTERS

CASE NO.: DG06-03150

Debtor(s)/

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

**TRUSTEE'S MOTION TO APPROVE SALE OF
ESTATE'S INTEREST IN REAL PROPERTY**

Please take notice that the above-referenced 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 7, 2009 at 10:00 a.m. at the United States Bankruptcy Court, **COURTROOM A, ONE DIVISION N.W., GRAND RAPIDS, MICHIGAN.**

You or your attorney may wish to file a response explaining your position. Such response should be **received** at least five 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 returned to Jeff A. Moyer, Trustee, for service. (Court to serve Buyers' List) (September 14, 2009-jm)



September 14, 2009

DANIEL M. LAVILLE
CLERK OF BANKRUPTCY COURT

/s/

BY: Jackie Malone, 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.miw.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
WESTERN DISTRICT OF MICHIGAN

In Re:

Case No. DG 06-03150

MARK E. WOLTERS,

Chapter 7; Filed 07/10/06

Debtor.

Hon. Scott W. Dales

MOTION TO APPROVE SALE OF ESTATE'S INTEREST IN REAL PROPERTY

NOW COMES Chapter 7 Trustee Jeff A. Moyer, by and through his attorneys, The Bankruptcy Group, Inc. and states as his Motion to the Court the following:

1. Mark E. Wolters ("Wolters" or "Debtor") filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on July 10, 2006 ("Petition Date").
2. Jeff A. Moyer is the duly appointed, qualified and acting Trustee in this case.
3. Included among the assets of this Debtor's estate is a parcel of real property located in the Township of Dalton, County of Muskegon, and State of Michigan commonly known as 4349 Pillon Road, Muskegon, Michigan 49445 (the "Property") and legally described as follows:

PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 23, TOWN 11 NORTH, RANGE 16 WEST, DESCRIBED AS: BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 23 THAT IS 1306.90 FEET SOUTH 00 DEGREES 59 MINUTES 57 SECONDS EAST ALONG THE NORTH AND SOUTH ¼ LINE OF SECTION 23 AND 706.00 FEET NORTH 88 DEGREES 39 MINUTES 29 SECONDS WEST OF THE NORTH ¼ CORNER OF SECTION 23; THENCE SOUTH 00 DEGREES 59 MINUTES 57 SECONDS EAST 353.33 FEET; THENCE SOUTH 88 DEGREES 39 MINUTES 29 SECONDS EAST 353.00 FEET; THENCE SOUTH 00 DEGREES 59 MINUTES 57 SECONDS EAST 176.76 FEET; THENCE NORTH 88 DEGREES 39 MINUTES 37 SECONDS WEST 922.90 FEET; NORTH 00 DEGREES 40 MINUTES 30 SECONDS WEST 529.89 FEET TO THE NORTHWEST CORNER OF SOUTHEAST ¼ OF THE NORTHWEST ¼; THENCE SOUTH 88 DEGREES 39 MINUTES 29 SECONDS EAST 566.90 FEET TO THE BEGINNING.

TOGETHER WITH A 33 FOOT WIDE EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER PART OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 23, TOWN 11 NORTH; RANGE 16 WEST, THE SOUTH LINE OF SAID EASEMENT BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTH ¼ CORNER OF SECTION 23; THENCE SOUTH 00 DEGREES 59 MINUTES 57 SECONDS EAST 1660.23 FEET ALONG THE NORTH/SOUTH ¼ LINE OF SAID

SECTION TO THE POINT OF BEGINNING OF SAID SOUTH LINE; THENCE NORTH 88 DEGREES 39 MINUTES 29 SECONDS WEST 707.35 FEET TO THE POINT OF ENDING OF THE SOUTH LINE OF SAID EASEMENT.

Parcel #: 61-07-023-100-0008-20

4. As of the Petition Date, the Debtor jointly owned the Property with his then wife as tenants by the entirety.

5. Pursuant to a post-petition judgment of divorce, the now ex-wife of the Debtor has transferred her former one-half interest in the Property back to the Debtor. The Debtor therefore now owns the Property jointly with the bankruptcy estate.

6. The Trustee has received an offer to purchase the solely estate's interest in the Property from Flagstar Bank, FSB (or its nominee) ("Flagstar").

7. The terms of the offer are as follows:

a. **Property.** The subject of the proposed sale is the estate's undivided 50% interest in real property commonly known as 4349 Pillon Road, Muskegon, Michigan 49445.

b. **Purchaser.** The proposed purchaser ("Purchaser") of the Property is Flagstar.

c. **Price.** The sale price is Eighty Thousand Dollars (\$80,000.00).

8. The Trustee is seeking approval of this offer free and clear from all liens, interests or claims in accordance with §363(f) of the Bankruptcy Code, except for the claims for back real estate taxes or other liens or assessments related to the entire Property identified in Paragraph 3. above. The sale will be subject to those items. Any other party holding a lien, interest or claim against the estate's interest in this Property shall have such lien, interest or claim terminated and removed from the Property, and it shall attach to the proceeds with the same validity, rank and priority as such lien, interest or claim has with regard to the Property. Further, the Property shall be sold on an "as is" and "where is" basis. No warranty is being made as to the usability fitness for a particular purpose, zoning, suitability, environmental quality, or any other matter. The Trustee is making no warranties or representations whatsoever regarding this Property. Any

proposed Purchaser is entirely responsible for viewing the Property, determining its suitability, and calculating its bid.

9. The sale shall be subject to the approval of the United States Bankruptcy Court for the Western District of Michigan. A closing shall be held no earlier than the 11th day following the entry of an Order approving such sale, unless such day is a Saturday, Sunday or legal holiday, in which case such closing shall then occur on the next business day.

10. In the event the winning Purchaser fails to consummate the sale at the time and date set by the Trustee for such closing in accordance with the terms of this motion, Trustee may, without the need for an additional hearing, further notice or Order of the Bankruptcy Court, consummate the sale with the backup Purchaser upon the same terms, other than the Court-approved back-up bid.

11. If approved, all costs and expenses incurred by the Trustee, including the statutory commission, as well as all expenses of the sale, including all administrative and legal expenses of the Bankruptcy Estate relating to the sale of this Property shall be charged against the sale proceeds. Such expenses shall be a first claim against the sale proceeds in accordance with 11 USC §506(c) of the Bankruptcy Code.

12. The Trustee believes that approval of the sale as outlined above is in the best interest of the Estate and that it should be approved. Any objections to this sale must be made in writing, and shall be filed with the Bankruptcy Court with a copy served upon counsel for the Trustee at the address set forth below. Any objections must be filed and served no later than three (3) business days prior to the date of the hearing on the approval of the sale.

13. The Trustee believes it is appropriate and in the best interests of the creditors and parties in interest in this case that the terms of this sale as set forth in this Motion be served on those persons listed on the matrix and the Court's Buyer's list.

14. The Trustee shall accept additional bids on the Property. Any other interested potential Purchasers must pre-register with the attorney for the Trustee at least two (2) business days prior to the hearing. Any additional bids must be cash bids, on these terms, with the first successive bid in the amount of \$82,000.00, and bids in minimum increments of at least \$1,000.00 thereafter. No offer on any other terms shall be considered.

15. At the conclusion of any competitive bidding that occurs, the Trustee will ask the Court to confirm both the successful highest bid, as well as the last bid by the highest other bidder as a back-up bid.

WHEREFORE, the Trustee, Jeff A. Moyer, requests the Court enter an Order granting the following relief:

A. Authorize the Trustee to sell the property free and clear of all liens, interests or claims in the Property, as outlined above,

B. Authorize the Trustee to execute any and all documents necessary to effectuate a closing on this sale on the terms proposed by this motion,

C. Schedule a hearing on the approval of the sale as soon as the Court's docket permits, and

D. Grant such other, further or different relief as may be just and equitable under the circumstances.

Respectfully submitted,

THE BANKRUPTCY GROUP, INC.

Dated: September 11, 2009

By: /s/ Mitchell J. Hall
Jeff A. Moyer (P44671)
Mitchell J. Hall (P64064)
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