

United States Bankruptcy Court
Western District of Michigan
One Division Ave., N.
Room 200
Grand Rapids, MI 49503

IN RE: Debtors (names used by the debtors in the last 8 years, including married, maiden, trade, and address):

Andy S. Roush
54 Keith Drive
Battle Creek, MI 49037
SSN: xxx-xx-9055
Deborah M. Roush
54 Keith Drive
Battle Creek, MI 49037
SSN: xxx-xx-6245

Debtors

Case Number 16-04337-swd

Chapter 7

Honorable Scott W. Dales

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL REAL PROPERTY OF THE ESTATE PURSUANT TO
11 USC SEC. 363(b) & (f)**

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 view on this matter, attend the hearing scheduled for August 23, 2017 at 10:00 AM at the United States Bankruptcy Court, Federal Building, U.S. Courthouse, Room 114, 410 W. Michigan Avenue, Kalamazoo, MI 49007.

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 and may enter an order granting that relief.



DANIEL M. LAVILLE
CLERK OF BANKRUPTCY COURT

Dated: July 25, 2017

/s/ _____
Kathy Trapp
Deputy Clerk

Notice returned to Stephen L. Langeland, Esq. for appropriate service: (7/25/17-kmt)

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.psc.uscourts.gov>.

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

IN RE:

ANDY S. ROUSH and
DEBORAH M. ROUSH

Case No. 16-04337-swd
Chapter 7
Filed: August 23, 2016

Debtor(s).

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**MOTION FOR AUTHORITY TO SELL REAL PROPERTY OF THE ESTATE PURSUANT
TO 11 USC SEC. 363 (b) & (f)**

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 on August 23, 2016.
2. Included in the property of the estate is the real property located at 8 Park Ave., Battle Creek, MI 49017.
3. The Trustee has offered the property for sale and has received an offer to purchase the property from Shaun W. Roach and Rochelle Roach (Buyers) for the sum of \$20,000.00.
4. That it is in the best interest of this estate and its creditors that said real property be sold to Buyers subject to the following terms and conditions:

A) PROPERTY: 8 Park Ave., Battle Creek, MI 49017

B) BIDDING: Bidding will commence with the bid of Buyers in the amount of \$20,000.00 with subsequent bids in increments of not less than \$ 500.00.

Sale shall be on a cash basis, with the successful bidder, other than Buyers being required to make a non-refundable deposit with the Trustee in the sum of \$ 1,000.00 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. The Purchaser shall be entitled to Possession of the Property on the date of 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.

C) TERMS: The 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 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 2017 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. Any and all liens, claims, and encumbrances shall be discharged when a copy of a subsequent Order Confirming Sale entered by this Court is recorded along with the Trustee's Deed in the Register of Deeds Office. The Trustee is aware of the following interests liens and encumbrances on this property

- A. TCF National Bank (Mortgagee). Mortgagee has consented to the sale and has agreed with the Trustee that all costs of closing including realtors commission, local and state transfer stamps, taxes, settlement fees, and title insurance shall be paid out of the sales price, and has further agreed that the net sales price after payment of said closing costs shall be split between Mortgagee and the Bankruptcy Estate equally. ("carve out").

Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), 7062, 9014 or otherwise, the Trustee is seeking that the terms and conditions of the proposed order approving this motion shall be immediately effective and enforceable upon its entry.

The expenses of custody, 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) INSPECTION: Arrangements for inspection of the real property to be sold can be made by contacting Stephen L. Langeland, Trustee at telephone (269) 382-3703.

5. 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 fourteen (14) days after the service of this Motion, or within the time fixed by the court 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).

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

WHEREFORE, the Trustee requests that this Court enter an order confirming sale of the real property as set forth above to Buyers for the sum of \$20,000.00, 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: July 20, 2017

/s/ Stephen L. Langeland

Stephen L. Langeland (P32583)

Attorney for Trustee

6146 W. Main St., Ste. C

Kalamazoo, Michigan 49009

(269) 382-3703