

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

<p>IN RE: Debtor (name used by the debtor in the last 8 years, including married, maiden, trade, and address):</p> <p>Lisa M. Brazelton 2876 Dozer Drive St. Joseph, MI 49085 SSN: xxx-xx-4972</p> <p style="text-align: right;">Debtor</p>	<p>Case Number 17-01232-swd</p> <p>Chapter 7</p> <p>Honorable Scott W. Dales</p>
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NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

Trustee's Motion for Authority to Sell Property Located at 2876 Dozer Drive, St. Joseph, Michigan

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, 2018 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 18, 2018

/s/ _____
Kathy Trapp
Deputy Clerk

Notice returned to Lori Purkey, Esq. for appropriate service: (7/18/18-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.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.psc.uscourts.gov>.

¹ Aliases for Debtor Lisa M. Brazelton : fdba Sage Ingenuity, Inc., fdba TCP Training Centers, Inc., fdba Total Coordination Professionals, Inc.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

LISA M. BRAZELTON,
Debtor.

Case No. 17-01232-swd
Chapter 7
Honorable Scott W. Dales

**TRUSTEE'S MOTION FOR AUTHORITY TO SELL PROPERTY
LOCATED AT 2876 DOZER DRIVE, ST. JOSEPH, MICHIGAN**

NOW COMES Thomas R. Tibble, Trustee ("Trustee") by and through his attorneys, Purkey & Associates, PLC and pursuant to 11 USC §363, seeks approval of the sale of certain real property of the Estate by stating as follows:

1. This Court has jurisdiction over the motion under 28 USC §157 and 1334.
2. This matter is a core proceeding within the meaning of 28 USC §157(b)(2)(A) and (N).
3. The authority upon which this motion is based is 11 USC §105 and 363 and Fed.R.Bankr.P. 6003 and L.B.R. 6004.
4. On March 17, 2017, Lisa M. Brazelton ("Debtor") filed a voluntary chapter 7 petition (the "Bankruptcy Filing"). On May 30, 2017, the case was converted to chapter 13. On August 18, 2017, the case was converted to chapter 7.
5. Thomas R. Tibble is the duly appointed and acting Chapter 7 Trustee.

6. Among the assets owned by the Debtor is an interest in certain real property located at 2876 Dozer Drive, St. Joseph, Michigan (the "Property") and more completely described as:

Land situated in the State of Michigan, County of Berrien, Township of Saint Joseph.

Lots 8 and 9, Highwood Estates, according to the plat thereof, recorded in Liber 19 of Plats, Page 50, Berrien County Records.

Tax ID # 18-3130-008-00-1

7. The Debtor listed the Property in her schedules with a value of \$450,000.00.
8. The Property is the Debtor's residence. However, the Trustee understands that the Debtor either has already relocated, or has plans to relocate out of state.
9. The Trustee has employed Nathan Genovese and Carol Genzink of RE/MAX Lakeshore as the real estate brokers (the "Brokers") in this matter, with the Brokers' employment being approved by the Court pursuant to an order entered May 29, 2018.
10. The Property has been listed for sale since April, 2018. The initial listing price was \$449,000.00.
11. After much negotiation the Trustee has accepted an offer of \$380,000.00, subject to approval of the Court and the parties with recorded security interests in the Property, from Michael and Jessica Kinney, or any person or entity so designated by them as the purchasers (the "Purchasers"), on the terms and conditions set forth in a Buy and Sell Agreement dated June 10, 2018, as modified by a Counter Offer dated June 15, 2018, and Counter Offer #2, dated June 26, 2018, and executed by all parties. Copies of the Buy and Sell Agreement and Counter Offers are attached as Exhibit A.

12. Based upon the current condition of the Property, the Trustee believes that acceptance of the offer is in the best interest of the Estate and seeks approval of the sale of the Estate's interest in the Property to the Purchasers on an "AS IS AND WERE IS" basis, with no representation, warranties, or guarantees of any kind, pursuant to 11 USC §363.

13. Based upon title work obtained by the Trustee, it appears that the Property is subject to the following interests:

a. a Mortgage dated July 3, 2012 between the Debtor as mortgagor and MERS as nominee for the lender Horizon Bank, recorded August 2, 2012, in Liber 3002, Page 2265, and the Assignment of Mortgage recorded February 26, 2018 in Liber 3198, Page 809. The Trustee has been provided a payoff letter by Horizon Bank effective though September 10, 2018 in the amount of \$319,090.21. Horizon Bank has obtained relief from the automatic stay and commenced foreclosure proceedings. The foreclosure sale was scheduled for July 19th, however, Horizon Bank has agreed to adjourn the foreclosure sale in light of the pending sale.

b. Memorandum of Judgment in favor of Scott Brooks, an individual, in the amount of \$23,000, recorded August 31, 2015 in Liber 3113, Page 1534.

c. Federal Tax Lien in the amount of \$52,938.96 recorded on September 9, 2015 in Liber 3114, page 794.

d. Federal Tax lien in the amount of \$23,996.68 recorded on April 4, 2016 in Liber 3132, Page 1474.

e. State of Michigan Tax Lien in the amount of \$9,218.21, recorded February 13, 2018 in Liber 3197, page 716.

f. Property taxes due in 2018. According to title work obtained by the Trustee, all property taxes due and payable prior to 2018 have been paid.

14. The liens of record will be treated as follows:

a. Horizon Bank will be paid in full at closing;

b. Memorandum of Judgment/Scott Brooks. Upon information and belief the Judgment has been satisfied in full by non-debtor third parties. The Trustee has requested a satisfaction of judgment be filed, or that the judgment lien be withdrawn. In the event a satisfaction of judgment or a withdrawal of the lien is not filed, the Trustee will obtain a release of the lien pursuant to MCLA 600.2809(6)(d) and therefore no payments will be made to Scott Brooks at closing and the lien will be discharged.

c. The IRS liens. The IRS has consent to the short sale of the Property and to a carve out for the Estate of all sale proceeds to which the IRS may have been entitled to receive. See Stipulation attached as Exhibit B.

d. State of Michigan liens. The State of Michigan has consented to the short sale of the Property and has agreed to withdraw its lien. See Stipulation attached as Exhibit C.

e. Property Taxes. Pursuant to the terms of the Buy and Sell Agreement, the taxes for 2018 are to be prorated between the Buyer and Sell and accounted for in typical fashion at closing.

15. The Trustee estimates that closing costs, including but not limited to Brokers' fees, title insurance and title fees, recording fees, transfer taxes, etc. will be approximately \$32,500.00. These costs are to be paid from the proceeds carved out pursuant the agreement between the Trustee and the IRS.

16. The carve out granted by the IRS will allow the Estate to realize approximately \$28,400 after payment of the first mortgage held by Horizon Bank and closing costs.

17. The offer described above is the highest and best offer the Trustee has received. The Trustee believes the proposed sale is fair and reasonable and in the best interest of the Estate.

18. The sale terms can be summarized as follows:

a. **PROPERTY:** The Property to be sold is a single family residence located in St. Joseph, Michigan, more completely identified herein.

b. **SALE:** The sale of the property shall be to the Purchasers, subject to the receipt of a higher and better offer at the courtroom auction sale. The opening bid shall be the offer of the Purchasers (\$380,000.00), with subsequent bids in increments of not less than \$1,000.00.

Sale shall be on a cash basis, with the successful bidder being required to make an Earnest Money deposit of \$1,000.00 on the date of the courtroom auction sale. No contingent bids shall be received. The Trustee reserves the right to accept a backup bid. Closing shall take place as soon as possible at a date mutually agreed upon by the Trustee and the Purchaser, but no later than 20 days after entry of the order approving the sale, and the total balance of the bid price shall be paid at closing.

c. **TERMS:** The Property will be sold 'AS IS AND WHERE IS", without representation or warranty, express or implied, of any kind, nature or description including, but not limited to, any representations about the condition or safety of the Property and/or any improvements thereon, including but not necessarily limited to electrical, plumbing, heating, well, septic, sewer, roof, air conditioning, foundations, soils and geology, lot size,

boundary locations or suitability of the Property and/or improvements for a particular purpose.

The 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, except as modified by the attached stipulations. Any and all liens, claims and encumbrances shall be discharged once a copy of an Order confirming the sale is entered by this Court and recorded with the Berrien County Register of Deeds. However, the Trustee seeks authority to pay all lien claims identified herein and other typical costs of sale, including but not limited to Brokers' commissions, closing costs, recording fees, and title insurance fees and costs and transfer taxes.

19. Any person objecting to the validity, proprietary or legality and/or having any objection of any kind to the sale described herein, shall file a written objection to the sale on or before seven (7) days before the date set for the hearing on this Motion and simultaneously serve copies on the Trustee, the attorney for the Trustee, the Office of the United States Trustee and any other party described below, at the addresses listed in this Motion and in accordance with Federal Rule of Bankruptcy Procedure 6004(b) and Local Bankruptcy Rule 9013.

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

21. Any objection to the Motion must be served on the following parties:

- a. All parties on the Court's matrix;
- b. The Office of the U.S. Trustee, 125 Ottawa, N.W., Suite 200R, Grand Rapids, MI 49503;

- c. Michael and Jessica Kinney, c/o Sibyl Kish, Realty Executives Pro Brokers, 815 West Main Street, St. Joseph, MI 49085;
- d. Nathan Genovese, c/o Lori L. Purkey, Purkey & Associates, PLC, 5050 Cascade Road, S.E., Suite A, Grand Rapids, MI 49546;
- e. Horizon Bank, c/o Michael McDermott, Trott Law PC, 31500 Northwestern Highway, Suite 200, Farmington Hills, MI 48334;
- f. Internal Revenue Service, c/o Nicole Mazzocco, U.S. Attorneys' Office, P.O. Box 208, Grand rapids, MI 49501-0208;
- g. State of Michigan – Department of Treasury – Collections, c/o James A. Ziehmer, Assistant Attorney General, P.O. Box 30754, Lansing, MI 48909-8254;
- h. Scott Brooks, c/o Elliot Richardson, Korey Richardson, LLC, 20 S. Clark Street, Suite 500, Chicago, IL 60603;
- i. All parties listed on the Court's Public Sales list.

WHEREFORE, the Trustee requests that:

- A. This Court enter an Order Confirming the Sale of the Property on the terms set forth herein;
- B. Thomas R. Tibble, Trustee, be authorized to take such actions, make such payments identified herein, including but not limited to brokers fees, closing costs, satisfaction of the lien of Horizon Bank and property taxes;
- C. That the Trustee be authorized to execute such documents as are reasonably necessary to effectuate said sale, including but not limited to a Trustee's Deed to the Purchasers, or any person or entity designed by the Purchasers.
- D. The Court grant such other relief as may be just and proper.

Dated: July 17, 2018

PURKEY & ASSOCIATES, PLC
Attorneys for the Chapter 7 Trustee

By: /s / Lori L. Purkey
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