

Form JDG11 (03/15)

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

**IN RE:** Debtor (name used by the debtor in the last 8 years, including married, maiden, trade, and address):

**Donald R Fellows III**  
4637 Dun Robin  
Belmont, MI 49306  
SSN: xxx-xx-1631

Debtor

**Case Number 20-00513-jwb**

**Chapter 7**

**Honorable James W. Boyd**

**NOTICE TO PARTIES IN INTEREST OF HEARING**

YOU ARE HEREBY NOTIFIED that a hearing will be held at the United States Bankruptcy Court, One Division Ave., N., 3rd Floor, Courtroom B, Grand Rapids, MI 49503 on **February 4, 2021** at **09:00 AM** to consider and act upon the following matter:

**Trustee's Motion for Sale of Debtor's Business Interests Free and Clear of Liens  
Pursuant to 11 U.S.C. Section 363(f) (DN 86)**

Judge Boyd will conduct the above hearing by videoconferencing using the Zoom Cloud Meeting program/app. Please review the COVID-19 notice on the court's website for more information. <https://www.miw.uscourts.gov/covid-19-notices>

If you want the court to consider your views on this matter, attend the hearing on the date stated above.

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.)

You or your attorney may wish to file a written response to the motion explaining your position. Any response shall be mailed to the Clerk of the United States Bankruptcy Court, One Division Ave., N., Grand Rapids, Michigan 49503, and should be received by the Clerk at least 7 (seven) days before the above hearing date. A copy of your responses should also be mailed upon the opposing party and his/her attorney.

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

Michelle M. Wilson  
CLERK OF BANKRUPTCY COURT

**Dated:** January 13, 2021

/S/ \_\_\_\_\_  
J. Koerth  
Deputy Clerk

A copy of this notice returned to Steven L. Rayman, Esq. on January 13, 2021 for service upon the mailing matrix .

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 continued or adjourned hearing. 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](http://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 Ave., N., 2nd Floor, Grand Rapids MI 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 6:00 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  
IN THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

DONALD R. FELLOWS, III,

Case No.: 20-00513

Chapter 7 – Filed: 02/07/2020

Debtor.

\_\_\_\_\_ /

**MOTION FOR SALE OF DEBTOR’S BUSINESS INTERESTS FREE AND CLEAR OF  
LIENS PURSUANT TO 11 U.S.C. §363(f)**

**NOW COMES** Thomas A. Bruinsma, Trustee (“Trustee”), by and through his attorneys, CBH Attorneys & Counselors, PLLC, and for his Motion for Sale of Debtor’s Business Interests Free and Clear of Liens Pursuant to 11 U.S.C. §363(f) (“Motion”), says as follows:

1. This Motion pertains to the above-captioned Chapter 7 proceeding which was filed on February 7, 2020.

2. Among the assets of this estate there exist certain business interests owned by the Debtor. Upon information and belief, these business interests include<sup>1</sup>:

- a. 1,000 shares of common stock in West Michigan Home Care Services, Inc. (a 33 1/3% interest);
- b. 100 shares of common stock in FLF, Inc. (a 33 1/3% interest; the Debtor’s interests in West Michigan Home Care Services, Inc. and FLF, Inc. are collectively referred to as the “Debtor’s Business Interests”).

3. The Debtor’s Business Interests are, as noted above, fractional interests in both West Michigan Home Care Services, Inc. and FLF, Inc.

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<sup>1</sup> The exact share interests and percentages reflected herein are derived from the keeper of the records for the Debtor’s Business Interests, as defined herein. Those percentages and form of ownership differ from that which appear in the Debtor’s Bankruptcy Schedules filed in this cause.

4. Upon information and belief, FLF, Inc. owns percentages of the following entities:
  - a. 67.5% of Elite Nursing, LLC;
  - b. 60% in 5334 Red Robin, LLC;
  - c. 51% in Kalamazoo Home Care Services, LLC; and
  - d. 55% in Home Care Services Lakeshore, LLC<sup>2</sup>.

5. The Trustee has reviewed financial data pertaining to the Debtor's Business Interests, including its Subsidiaries. The Trustee also engaged the services of Harrington Associates, LLC, as his financial advisor, to assist him in valuing the Debtor's Business Interests.

6. During the course of these proceedings, the Trustee has conducted negotiations with a group consisting of the remaining majority owners of the Debtor's Business Interests ("Debtor's Partners"). After completion of his due diligence and conclusion of his negotiations, the Trustee has received an offer from the Debtor's Partners for the total sum of \$130,000.00, payable in cash for the Debtor's Business Interests (Note: the Debtor claimed no exemption in the assets described herein, i.e., the Debtor's Business Interests. All of the proceeds from the proposed sale will be payable to the estate).

7. The proposed sale contemplates that \$130,000.00 will be payable in cash after approval of this Motion, which will also provide for competitive bidding on the asset.

8. The proposed sale, as a cash sale is subject to the following terms:
  - a. The sale shall be "AS IS, WHERE IS" with the Trustee making no representation or warranty, expressed or implied, of either the value or percentage of the Debtor's Business Interests or any other warranty, expressed or implied. The estate is selling what the Debtor has stated he owns regarding the Debtor's Business Interests on his Bankruptcy Schedules;

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<sup>2</sup> West Michigan Home Care Services, Inc., Kalamazoo Home Care Services, LLC, Home Care Services Lakeshore, LLC, Elite Nursing, LLC and 5334 Red Robin, LLC are collectively referred to as the "Subsidiaries".

- b. The sale of the Debtor's Business Interests shall be subject to competitive bidding at a Court auction to take place at the United States Bankruptcy Court for the Western District of Michigan, One Division Avenue North, Grand Rapids, Michigan 49503 at the time and place scheduled for the hearing on this Motion. The minimum opening bid shall be deemed the bid of the Debtor's Partners and/or their assignees in the total amount of \$130,000.00. Any and all additional bidding shall be in strict conformance with the terms and conditions of this Motion with subsequent bids being in increments of \$1,000.00 or more;
- c. The Debtor's Partners have deposited an earnest money deposit with their attorney in the amount of \$130,000.00. Any other bidder(s) wishing to bid on the Debtor's Business Interests shall be required to remit an earnest money deposit with the Trustee in the amount of \$130,000.00, said deposit must be received by the Trustee prior to five (5) business days before the date scheduled for the Court auction;
- d. The Trustee shall make a "due diligence" packet available to any perspective bidder, provided, however, that any perspective bidder shall be required to enter into a confidentiality agreement in the form provided by the Trustee and shall further agree that any dispute between said perspective purchaser and the Trustee shall be determined by this Court with said perspective purchaser agreeing to the jurisdiction of this Court for said purchase;
- e. All perspective purchasers, including the Debtor's Partners, shall be required to provide the Trustee with evidence of an ability to close, suitable to the Trustee in his discretion and in such form as the Trustee, in his sole discretion, deems appropriate so as to assure performance regarding this matter;
- f. This sale shall be on a cash basis. The Trustee proposes that in the event the Debtor's Partners (or any other successful bidder) fails to close, that he be authorized to complete the sale to a "back-up" bidder;
- g. The sale shall be deemed free and clear of liens, pursuant to **11 U.S.C. §363(f)** with the Debtor's Partners or the successful bidder taking free and clear of any encumbrances with liens, encumbrances and interest attaching to the sale proceeds in the same rank, validity and priority as existed prior to the Petition. Upon information, there are no liens or interests attaching to the Debtor's Business Interests;

- h. The sale shall be closed within fourteen (14) days from the entry of the Order approving same; and
- i. There shall be no “financing” or other contingencies. This is a cash sale. The Trustee shall provide a Trustee’s Bill of Sale, in the form attached as Exhibit “A”, without warranty and/or an assignment of the Debtor’s Business Interests without warranty. The conveyance shall be for the Debtor’s interests in West Michigan Home Care Services, Inc. and in FLF, Inc.

9. The proposed sale has been the subject of a long-term negotiation between the parties. The negotiation has been arms-length. Despite their relationship with the Debtor, your Trustee believes that the Debtor’s Partners are entitled to the protections of 11 U.S.C. §363(m) as a good faith purchaser. Your Trustee also requests that the Order granting this Motion include such protections as to the Debtor’s Business Partners and any successful bidder, to the extent requested by the Trustee.

10. The sale proposed herein is a proper exercise of the Trustee’s business judgment. The Trustee has not only analyzed the financial data and financial status of the Debtor’s Business Interests, he has also retained a financial advisor to advise him regarding the sale. John Harrington, the principal of the Trustee’s financial advisor, has reviewed the financial data provided, studied the market and supports the sale, believing that it is a fair and adequate price for the assets that are the subject of the sale.

**WHEREFORE**, your Trustee prays that:

A. This Court enter an Order authorizing the sale of the Debtor’s Business Interests to the Debtor’s Partners or such other successful bidder for such terms and conditions set forth in this Motion for the sum of \$130,000.00 or such bid as made in excess of that amount;

B. This Court authorize the Trustee to accept bids at a Court auction with the starting bid of \$130,000.00;

C. The Trustee be authorized to accept a back-up bidder in such amount as may be bid in open Court;

D. The Trustee be authorized to execute a Trustee's Assignment and/or such other documents as are reasonably required to effectuate the sale of the assets, without warranty of any kind;

E. This Court order such other relief as it finds just and equitable.

**CBH Attorneys & Counselors**  
Attorneys for Trustee

Dated: January 12, 2021

By: \_\_\_\_\_ /s/\_\_\_\_\_  
Steven L. Rayman (P30882)

**BUSINESS ADDRESS:**  
141 East Michigan Avenue, Suite 301  
Kalamazoo, MI 49007  
Telephone: (269) 345-5156

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

IN THE MATTER OF:

DONALD R. FELLOWS, III,

Case No.: 20-00513

Chapter 7 – Filed: 02/07/2020

Debtor.

\_\_\_\_\_/ /

**TRUSTEE'S BILL OF SALE**

**KNOW ALL MEN BY THESE PRESENTS**, that

**WHEREAS**, the undersigned, Thomas A. Bruinsma, Trustee, is the duly appointed, qualified and acting Trustee herein; and

**WHEREAS**, on a Motion filed and with notice to all creditors and interested parties, a sale was held on \_\_\_\_\_ of certain personal property of the estate as described in a certain Motion for Sale of Debtor's Business Interests Free and Clear of Liens Pursuant to 11 U.S.C. §363(f) ("Motion"), referred to in the Motion as the "Debtor's Business Interests"; and

**WHEREAS**, said Trustee did, in pursuance of a Court Order, sell said property to \_\_\_\_\_ ("Buyer") at a Court auction for the sum of \$130,000.00; and

**WHEREAS**, an Order was entered by the Court on \_\_\_\_\_, 2021, duly confirming said sale;

**NOW, THEREFORE**, I, Thomas A. Bruinsma, Trustee of the said Debtor, Donald R. Fellows, III, in bankruptcy as aforesaid, by virtue of the said Order of Sale, and confirmation thereof; and by virtue of the powers vested in me by the Bankruptcy Code, said Order for and in consideration of the sum of \$130,000.00, paid to me by \_\_\_\_\_, receipt whereof is hereby acknowledged; do hereby grant, bargain, assign, sell and convey to the said Buyer, and its successors and assigns forever, all my right, title and interest as Trustee in the Debtor's Business Interests, as defined by a the Motion.

**TO HAVE AND TO HOLD** the said property to the said Buyer, its successor forever, as fully and completely as the said Trustee, by virtue of said Order of Sale and the confirmation thereof, and the Bankruptcy Code of the United States, might or should sell and convey the same.

**IN WITNESS WHEREOF** the said Thomas A. Bruinsma, Trustee, has hereunto set his hand on this \_\_\_\_\_ day of January, 2021.

IN THE PRESENCE OF:

\_\_\_\_\_  
  
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\_\_\_\_\_  
Thomas A. Bruinsma, Trustee, as Trustee in the  
Matter of Donald R. Fellows, III – 20-00513.  
U.S. Bankruptcy Court for the Western District  
of Michigan, not individually.