

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):

Jeffery L Hughes
PO Box 853
Traverse City, MI 49685
SSN: xxx-xx-3760
Dessie J Hughes
1220 N. Lafayette St.
Apt. 4
Denver, CO 80218
SSN: xxx-xx-0493

Debtors

Case Number 18-02908-swd

Chapter 7

Honorable Scott W. Dales

NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST

TRUSTEE'S MOTION FOR APPROVAL OF SALE VIA COURTROOM AUCTION OF BANKRUPTCY ESTATE'S INTEREST IN LAND CONTRACT

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 May 2, 2019 at 12:30 PM at the United States Bankruptcy Court, Logan Place West, 3249 Racquet Club Drive, Traverse City, MI 49684.

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: March 14, 2019

/s/ _____
Kathy Trapp
Deputy Clerk

Notice returned to Laura J. Genovich, Esq. for appropriate service: (3/14/19-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>.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

In re:

Case No. 18-02908-swd

JEFFERY L. HUGHES, and
DESSIE J. HUGHES,

Chapter 7

Debtors.

Hon. SCOTT W. DALES
U.S. Bankruptcy Judge

**TRUSTEE'S MOTION FOR APPROVAL OF SALE VIA COURTROOM AUCTION OF
BANKRUPTCY ESTATE'S INTEREST IN LAND CONTRACT**

The Trustee, Laura J. Genovich, states as follows:

1. Debtors commenced this case by filing a voluntary petition on June 29, 2018.

Laura J. Genovich is the Chapter 7 Trustee.

2. On or about August 5, 2015, Pamela Stanek and Rosemarie Farthing Carroll ("Vendors") entered into a land contract with Debtors for the sale of real estate located at 516 S. Union Street, Traverse City, MI 49684 (the "Property"). Debtors are the vendees under the Land Contract.

3. Vendors were granted relief from the automatic stay by this Court on October 11, 2018 (DN 66), to commence a state court land contract forfeiture action against Debtors.

4. The Trustee did not timely assume the Land Contract under 11 U.S.C. § 365 because there were no funds in the bankruptcy estate to cure Debtors' default. The Trustee's decision to not assume the Land Contract constitutes a breach of the Land Contract, but it does not remove Debtors' Land Contract vendee interest from the bankruptcy estate. *In re Markley*, 144 B.R. 738, 741–42 (Bankr. W.D. Mich 1992) (citing *In re Vertich*, 5 Bankr. 684 (Bankr. D. S.D. 1980)) (holding property rejected under § 365 remains property of the estate).

5. Upon information and belief, there is no equity in the Property.

6. The Trustee wishes to sell Debtors' interest as vendees under the Land Contract ("Land Contract Vendee Interest"), to Debtors, unless a higher offer is received.

7. Debtors have offered to pay Seven Thousand Five Hundred Dollars (\$7,500) to the Trustee within 7 days after entry of an Order approving this Agreement to purchase the estate's interest in the Property.

8. The Trustee believes that the Debtors have provided a bona fide, good faith offer but wishes to conduct a courtroom auction of the Property. If a higher bid is received, then the Trustee will have no obligation to proceed with the proposed sale to Debtors.

9. The Trustee will accept bids for the estate's interest in the Property in open Court in an auction format. The minimum bid shall be \$7,500 and bidding shall be in increments of \$1,000.

10. The Trustee requests that a copy of this motion be served on the buyers' list maintained by the Court.

11. The Trustee's sale of the Land Contract Vendee Interest is on an "AS IS, WHERE IS" basis without representation or warranty, express or implied, of any kind, nature or description, including any warranty by description or of merchantability, habitability, usability, marketability of title, or fitness for any particular purpose. The Trustee shall not be required to inspect, test or report on the condition of the Property or of the existence of any possible defects in the Property. The buyers are responsible for all inspections and due diligence, including all title searches. The Trustee makes no guarantees or warranties as to the nature of the interest being conveyed.

12. The Trustee believes it is in the best interests of the estate to sell the Land Contract Vendee Interest at this time. The proposed sale price is fair and reasonable. The sale will result in the receipt by the bankruptcy estate of funds for distribution to unsecured creditors.

13. A Report of Sale will be filed with the Court if and when the sale closes.

WHEREFORE, the Trustee respectfully requests that:

(A) The Trustee be authorized to sell the Land Contract Vendee Interest in the Property via an auction held at the U.S. Bankruptcy Court;

(B) The sale be on a "where is" and "as is" basis with no representations or warranties made by the Trustee or the Trustee's law firm;

(C) The sale shall be subject to any and all existing liens on the Property;

(D) The Trustee be authorized to execute any and all documents necessary to effectuate the sale; and

(E) The Trustee be awarded such other and further relief as the Court deems just and equitable.

Dated: March 12, 2019

Respectfully submitted,

By: 

Laura J. Genovich, Trustee

Business Address:

1700 East Beltline, NE, Suite 200
Grand Rapids, MI 49525
(616) 726-2200

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