

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

IN RE:

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WILLIAM C. VIRKUS

CASE NO.: DK17-04558  
CH. 7

Debtor./

**NOTICE TO CREDITORS AND OTHER PARTIES IN INTEREST**

**TRUSTEE'S MOTION FOR SALE OF REAL ESTATE UNDER §363(b)**

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 March 14, 2018 at 10:00 a.m. at the United States Bankruptcy Court, U.S. Courthouse and Federal Building, 410 West Michigan, Room 114, Kalamazoo, Michigan.

You or your attorney may wish to file a response explaining your position. Such response should be **received** at least seven 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.

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Returned to Thomas C. Richardson, Esq. for service of notice of hearing, motion and order shortening time upon the matrix. Court to serve Buyer's List. (February 28, 2019-kt)

February 28, 2019

DANIEL M. LAVILLE  
CLERK OF BANKRUPTCY COURT

/s/

BY: Kathleen Trapp, 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.miwb.uscourts.gov](http://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.pcs.uscourts.gov>.

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION

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IN RE:

Case No. DK 17-04558  
(Chapter 7 filed 9/29/17)

WILLIAM C. VIRKUS,

HON. SCOTT W. DALES  
Bankruptcy Judge

Debtor.  
\_\_\_\_\_ /

**ORDER TO SHORTEN NOTICE**

PRESENT: HON. SCOTT W. DALES, Bankruptcy Judge

THIS MATTER having come on to be heard upon the Motion To Shorten Notice regarding a certain Motion For Sale Of Real Estate Under §363(b), and the Court having reviewed said Motion and having found that the relief prayed for is proper and warranted under the circumstances and in accordance with Bankruptcy Rule 9006(c);

IT IS HEREBY ORDERED that the time and notice for the Motion For Sale Of Real Estate Under §363(b) be shortened to 13 days so that hearing can be heard on March 14, 2019 at 10:00AM at the Bankruptcy Court, 410 W. Michigan Avenue, Kalamazoo, Michigan.

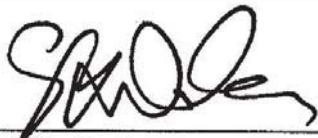
Order prepared by:  
Thomas C. Richardson (P31750)  
LEWIS, REED & ALLEN, P.C.  
PO Box 51067  
Kalamazoo, MI 49005-1067  
(269) 388-7600

**END OF ORDER**

**IT IS SO ORDERED.**

Dated February 28, 2019



  
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Scott W. Dales  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION

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IN RE:

Case No. DK 17-04558  
(Chapter 7 filed 9/29/17)

WILLIAM C. VIRKUS,

HON. SCOTT W. DALES  
Bankruptcy Judge

Debtor.

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**MOTION FOR SALE OF REAL ESTATE UNDER §363(b)**

Thomas C. Richardson, Trustee, through counsel, moves for sale of real estate under Bankruptcy Code §363(b) as follows:

1. He is the duly appointed and acting Trustee in this Chapter 7 proceeding filed September 29, 2017.
2. Included in the property in this estate is a one-quarter interest in vacant real estate in the Township of Benton, Berrien County, Michigan, (the "Real Estate") described as follows:

See attached Exhibit A
3. The Bankruptcy Estate owns a one-quarter interest in the Real Estate. A one-half interest is owned by the Estate of Donald W. Virkus. A one-quarter interest is owned by Sandra D. Virkus, Debtor's wife. The co-owners consent to the sale.
4. The sellers have received an offer to purchase the Real Estate from Beau Allard for the sum of \$23,000.00. The offeror is not an insider.
5. Trustee is not aware of any mortgage or lien on the Real Estate, other than real estate taxes which will be paid from closing.



6. The Trustee proposes that the Real Estate be offered for sale in open Bankruptcy Court on the following terms:

- (a) A copy of the Allard offer shall be available at the Bankruptcy Court Clerk's Office, One Division Avenue, NW, Room 200, Grand Rapids, MI, for review by interested parties during business hours.
- (b) Bidding will commence at \$24,000 with subsequent bids in increments of not less than \$500.00.
- (c) The sale will be on a cash basis with the successful bidder being required to deposit \$2000.00 (in cash or by cashier's check or other certified funds) at the conclusion of the bidding. The deposit of the successful bidder shall be retained and shall not be refundable in the event the successful bidder fails to close the purchase, except as allowed by the Buy & Sell Agreement. No contingent bids shall be received. Closing shall be by April 11, 2019, or such later date as the parties may agree. Possession shall be given to the purchaser at closing.
- (d) The Real Estate will be sold on an "as is, where is" basis, without representation or warranty, express or implied, of any kind, nature or description, including, without limitation, any warranty by description or marketability, merchantability, habitability, or usability, or of fitness for any purpose. The Trustee shall not be required to inspect or test or report on the condition of the Real Estate or the existence of any possible defects in the Real Estate.
- (e) All 2019 Real Estate taxes shall be prorated to closing.
- (f) The sale of the Estate's interest in the Real Estate shall be consummated by the delivery to the purchaser of a Trustee's Deed without warranty of title. Sellers shall furnish title insurance to the purchaser.
- (g) The expenses of custody, protection, and insurance of the Estate's interest in the Real Estate, as well as expenses of sale, including administrative and all legal expenses of these proceedings relating to the protection and sale of said Real Estate, shall be charged against the sale proceeds with priority over all claims.
- (h) Arrangements for inspection of the Real Estate to be sold can be made by contacting Art Attila, Realtor, Attila Real Estate, 3665 S. Lakeshore Drive, St. Joseph, MI 49085, (269) 983-8000.
- (i) Any person objecting to the validity, propriety 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 three (3) business days before the date set for the hearing on this Motion and simultaneously serve a copy thereof on the attorney for the Trustee at the addresses listed on this Motion, in accordance with Bankruptcy Rule 6004(b).

7. The offer which the Trustee has received is subject to a commission of seven percent (7%) to be paid to Atilla Real Estate, conditioned upon the consummation of the sale.

8. Real estate taxes due are estimated at \$46.05. The Estate's share of the real estate transfer taxes would be \$49.45.

9. Debtor's brother, Donald Virkus and/or his Trustee, Bradley Virkus, have made the following property tax payments for the Real Estate:

Summer 2017	\$109.81
Winter 2017	\$45.15
Summer 2018	<u>\$112.04</u>
Total	\$267.00

Trustee proposes that one-quarter of that amount (\$66.75) be reimbursed to the Estate of Donald Virkus from the proceeds of this sale.

10. The Trustee believes that the sale of the Real Estate pursuant to the terms herein is in the best interests of the estate and its creditors.

WHEREFORE, Thomas C. Richardson, Trustee, prays:

A. That this Court authorize Trustee to join in the sale of said Real Estate upon the terms and conditions set forth herein for \$23,000.00, or to any other purchaser for any additional sums as may be bid in open Court.

B. That the Court determine that the buyer is a good-faith purchaser for purposes of 11 U.S.C. §363(m).

C. That the Trustee be authorized to execute a Trustee's Deed or such other conveyance document for the Estate's interest in the Real Estate in conformance with the within terms.


D. That the Trustee be authorized, without further Order of this Court, to pay the Estate's share of realtor's commissions and of any outstanding taxes on the Real Estate and any lienholders and other costs and expenses needed in order for closing to take place, including Real Estate transfer tax and the reimbursement to the Estate of Donald Virkus referred to in paragraph 9.

E. That the Stay of Order under Bankruptcy Rule 6004(h) be waived so that closing may take place immediately since buyer is anxious to close.

F. For all other relief that this Court finds just and equitable.

LEWIS, REED & ALLEN, P.C.

Dated: 2/27/19

By:   
Thomas C. Richardson (P31750)  
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