

JOHN J. MCMANUS & ASSOCIATES, P.C.
ATTORNEYS AND COUNSELORS AT LAW

4550 Hugh Howell Road
Building 500, Suite 510
Tucker, GA 30084
jmcmamus@mcmanus-law.com

November 29, 2016

Mr. Claudio Avendano
PO Box 401
Winston, GA 30180

Via Email claudio@metroecho.com and Regular Mail

Re: 155 Liberty Road, Villa Rica, GA
Response to Email

Dear Mr. Avendano:

We are in receipt of your Email correspondence received yesterday at 3:10P.M. regarding the above-referenced matter. You requested me, as counsel for Jarod Plunkett, “advise the new owners to respect my tenants, and my legal rights.” Please carefully note our response as follows:

1. On October 20, 2016, we attended a hearing wherein the Bankruptcy Court Ordered the following¹:
 - a. That the real property known as 155 Liberty Road, Villa Rica, GA was to be auctioned off to the highest bidder, thereby overruling your objection.
 - b. The issue of valid leases was discussed and it was determined that no leases were approved by either Bankruptcy Judge during the course of this case, or the Chapter 13 from which this case was converted. Therefore, there are no valid leases related to the property, although inquiry was to be made by the highest bidder regarding entities that may have occupied the property without court approval.

¹ Copy of Order attached as Exhibit “B.”

- c. Jarrod Plunkett was the highest bidder.
 - d. That “within two (2) weeks of entry of this Order and prior to the Closing on the Sale, Debtor shall turn over the Commercial Property, leaving the Commercial Property with all fixtures and appurtenances remaining attached thereto, and removing all personal property therefrom.”
 - e. The subject Order continued, “It is further ordered that any personal property remaining thereafter shall be deemed abandoned by Debtor.”
2. At the October 20, 2016 hearing, the trustee also abandoned the estate’s interest in and to any of the personal property in the premises.
 3. On October 24, 2016, the Court’s Order was filed in your bankruptcy case [Chapter 7 Case No. 15-64523-PWB, Doc 126].
 4. On November 8, 2016, Jarrod Plunkett completed the closing of the real property located at 155 Liberty Road, Villa Rica, GA.², and the Trustee of your bankruptcy estate executed a Trustee’s deed conveying legal interest in and to the real property pursuant to 11 USC 363.³
 5. On November 21, 2016, this matter was before the Bankruptcy Court once again, in part on Mr. Plunkett’s Motion for Relief from Stay. At that hearing, you provided **sworn testimony** as follows;
 - a. That you had vacated the property known as 155 Liberty Road, Villa Rica, GA, but some of your personal items remained therein.
 - b. You testified that you were now living with your son in real property you were improving, which property was sought for an exemption based upon your residence therein.
 - c. You acknowledged the sale and stated that some of your personal property remained therein.
 6. At the November 21, 2016 hearing, the following occurred:

² See certified copies of closing statement attached

³ See Trustee’s Deed recorded 11/09/2016 in Deed Book 3437, Pages 816-826, Douglas County, GA Records attached

- a. The Trustee reiterated his intention to abandon certain property of your bankruptcy estate, including, but not limited to, personal property located in the real property known as 155 Liberty Road, Villa Rica, GA.
 - b. The Court granted Mr. Plunkett's Motion for Relief.
7. Subsequent to the November 21, 2016 hearing, after your sworn testimony that you and your son no longer resided improperly in that commercial building, on or about November 22, 2016, Mr. Jarrod Plunkett took control of the building by securing the building by installing new locks and taking steps to change utilities to his name.
8. On November 23, 2016, you improperly took the steps outlined in your November 24, 2016 report to the Douglas County Sheriff's Office. As indicated above, you failed to accurately state the facts of the matter to the Douglas County Sheriff's Office, as follows:
 - a. You claim the property at issue is "my property." However, as clearly demonstrated herein and as you acknowledged at the November 21, 2016 hearing in your sworn testimony, Mr. Plunkett is the owner of the real property located at 155 Liberty Road, Villa Rica, GA. [See footnote 3]
 - b. You claim you own "clothing" from a "business on premises." As more fully set forth in the bankruptcy Court's Order of October 20, 2016, as of November 8, 2016, all such personal property was abandoned. [see footnote 1: page 5 of 7].
 - c. You voluntarily surrendered possession.

As a consequence of the above-referenced actions and rulings, the following was, and remains, the status of the subject real and personal property:

1. Re: Real Property located at 155 Liberty Road, Villa Rica, GA: The real property is owned by Jarrod Plunkett in fee simple as of November 8, 2016, pursuant to the Trustee's conveyance [see footnote 3].
2. Re: Personal Property: As of November 8, 2016, all personal property located in the real property located at 155 Liberty Road, Villa Rica, Ga was deemed abandoned pursuant to Judge Bonapfel's October 20, 2016 Order. Any property remaining is now the property of Jarrod Plunkett. [see Order: footnote 1, page 5 of 7].

3. Re: Your purported tenancy: Pursuant to your sworn testimony of November 21, 2016, you and your son vacated the real property located at 155 Liberty Road, Villa Rica, GA at some date prior to the November 21, 2016 hearing, and you and your son were now residing at another property.⁴ Therefore, any claimed tenancy was terminated voluntarily by your actions, you own no property in the subject building, and your current revival of that claim is, therefore, moot and without merit.

In summary, you have neither the tenant at sufferance rights you claim nor any personal property rights regarding any personal property abandoned at the real property located at 155 Liberty Road, Villa Rica, Ga, for the following reasons:

1. You no longer own the property as a consequence of the sale thereof to the benefit of your Chapter 7 Bankruptcy action.
2. You no longer own any personal property therein as of November 8, 2016. You had ample time to recover any personal property you wished to recover prior to that date, and, according to the Court's Order, after November 8, 2016, "any personal property remaining thereafter shall be deemed abandoned by Debtor."

You have requested that we "advise the new owners to respect my tenants, and my legal rights." Any advice provided would be consistent with the undisputed facts set forth herein.

However, you are hereby and herewith advised as follows;

1. A dispossessory action was filed yesterday, although we do not believe that action will be necessary to resolve the issues herein as more fully set forth below.
2. Our client intends to do the following:
 - a. Go to the Douglas County Sheriff's Office with a copy of the Bankruptcy Court's Order, a copy of this letter, and a certified copy of the November 8, 2016 Closing Statement and the recorded Trustee's Deed reflecting our client's fee simple ownership in the property.

⁴ Mr. Plunkett will obtain a transcript of the subject hearing if needed.

- b. Go to the Villa Rica Department of zoning enforcement and advise them of your prior improper use of the subject property as a quasi-residence, and request that they confirm no such use currently exists, as you appear to claim in your November 24, 2016 correspondence.

As for the threats and purported statements made by our client set forth in your November 24, 2016 correspondence to the Douglas County Sheriff, we will only dignify the following with a response as follows:

1. You and your son have vacated the real property and no longer improperly resided therein, and you have no tenancy whatsoever.
2. You no longer own any of the personal property located in the real property located at 155 Liberty Road, Villa Rica, GA, regardless of your assertions otherwise.
3. If you stored your client's items on the premises, our client has no knowledge of any such activity, nor are there any valid agreements for such storage. No such property remains in the real property to our client's knowledge, and he is not responsible for any such property.
4. As we indicated at the November 21, 2016 hearing, your entry onto or into the real property located at 155 Liberty Road, Villa Rica, GA subsequent to [after] November 8, 2016 is considered trespass, and Mr. Plunkett will further discuss that matter with the Douglas County Sheriff.
5. Your destruction of our client's property and removal of any personal property subsequent to [after] November 8, 2016 constitutes removal of property now belonging to Mr. Plunkett. Once again, Mr. Plunkett will discuss that matter with the Douglas County Sheriff during their upcoming meeting.

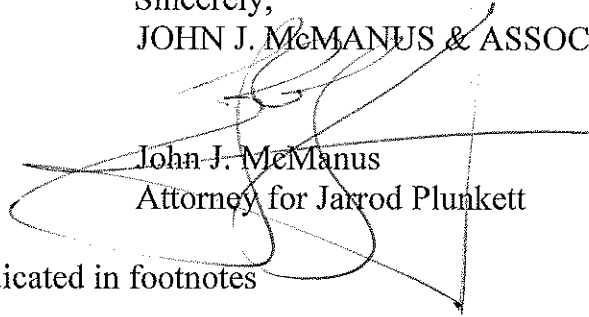
Your bankruptcy is not complicated as far as our client's interests are concerned. Our client purchased an asset of your bankruptcy estate and simply wants to secure it and renovate it so he can conduct his business accordingly. You own no personal property therein, and your assertions otherwise to the authorities are disingenuous at best, and a full report of the facts to the city and county authorities will hopefully promptly and finally dispose of all remaining issues without further action on my client's part.

It appears Judge Bonaphel has tried at every opportunity to make this transition one that mitigates the impact your bankruptcy filing has had on you and your family. However, you have apparently taken his kindness as some form of weakness. Our client was similarly willing to work with you and assist you in obtaining your personal property from the real property at 155 Liberty Road, Villa Rica, GA. However, you appear now to be attempting to utilize every perceived legal tactic to improperly, and potentially illegally, interfere with our client's use and enjoyment of property he has lawfully purchased, and he is no longer willing to work with you in any way at all.

It is our client's sincere hope that you will cease and desist from further interference with his use and enjoyment of the real property located at 155 Liberty Road, Villa Rica, Ga, However, you are hereby and herewith forewarned that continued interference will be handled as indicated herein.

Govern yourself accordingly.

Sincerely,
JOHN J. McMANUS & ASSOCIATES, P.C.



John J. McManus
Attorney for Jarrod Plunkett

Attachments: As indicated in footnotes

C: Client with attachments

Buyer's Settlement Statement



Certified to be a
true copy Denise Hancock

Settlement Date: 11/08/2016
 Disbursement Date: 11/08/2016
 Settlement Location: 5565 Glenridge Connector, Suite 350, Atlanta, GA 30342
 File Number: G162587D

Buyer: Jarrod M. Plunkett
 GA
 Seller: Neil Gordon as and only as Trustee for the Bankruptcy Estate of Claudio Pablo Avendano
 171 17th Street, NW
 Suite 2100
 Atlanta, GA 30363
 Property location: 155 Liberty Road
 Villa Rica, GA 30180
 Tax Parcel No:

Financial Consideration	Buyer	
	Debit	Credit
Sale Price of Property	475,000.00	
Earnest Money held by Neil Gordon as and only as Trustee for the Bankruptcy Estate of Claudio Pablo Avendano		20,000.00
Prorations/Adjustments		
County Taxes (\$5798.47) 11/08/16 - 01/01/17	855.51	
Title & Settlement Charges		
Title - Closing Fee to Campbell & Brannon, LLC	675.00	
Title - Owner's Title Insurance to Campbell & Brannon, LLC Coverage: 475,000.00	712.50	
Recording/State Charges		
Recording Fees to Douglas County Clerk of Court	26.00	
Transfer Tax to Douglas County Clerk of Court	475.00	
Subtotals	477,744.01	20,000.00
Balance Due FROM Buyer		457,744.01

Seller's Settlement Statement



Settlement Date: 11/08/2016
Disbursement Date: 11/08/2016
Settlement Location: 5565 Glenridge Connector, Suite 350, Atlanta, GA 30342
File Number: G162587D
Lender: Westside Bank
Loan Type: Conventional Uninsured
Buyer: Jarrod M. Plunkett
 GA
Seller: Nail Gordon as and only as Trustee for the Bankruptcy Estate of Claudio Pablo Avendano
 171 17th Street, NW
 Suite 2100
 Atlanta, GA 30363
Property location: 155 Liberty Road
 Villa Rica, GA 30180
Tax Parcel No: 01430250061

	Seller	
	Debit	Credit
Financial Consideration		
Sale Price of Property		475,000.00
Excess Deposit	20,000.00	
Prorations/Adjustments		
County Taxes (\$5798.47) 11/08/16 - 01/01/17		855.51
Miscellaneous Debits/Credits		
2016 Douglas County Taxes to Douglas County Tax Commissioner	5,798.47	
2014 Douglas County Taxes to Douglas County Tax Commissioner	12,520.50	
Payment to Jerry E. Austin for partial payment on 1st mtg. to Jerry E. Austin	380,000.00	
2015 Douglas County Taxes to Douglas County Tax Commissioner	7,045.02	
Subtotals	425,363.99	475,855.51
Balance Due TO Seller	50,491.52	

ACKNOWLEDGEMENT AND RECEIPT OF SETTLEMENT STATEMENT

DATE: November 8, 2016

PURCHASER: JARROD M. PLUNKETT

SELLER: NEIL C. GORDON AS AND ONLY AS TRUSTEE FOR THE BANKRUPTCY ESTATE OF CLAUDIO PABLO AYENDANO

PROPERTY ADDRESS: 155 LIBERTY ROAD, VILLA RICA, GA 30180

Purchaser and Seller acknowledge that each has received, reviewed, and approved the entries appearing on the Settlement Statement, and each acknowledge receipt of a copy of same. Purchaser acknowledges receipt of a copy of the Truth in Lending Disclosures, if any, prior to consummation of the loan transaction. Purchaser further acknowledges receipt and disbursement on his behalf of the loan proceeds in full. Seller acknowledges receipt and payment in full of the proceeds due Seller from the settlement.

If the proration of taxes and assessments was made based on estimated amount/s prior to receipt of current actual bills, the buyer will be responsible for payment of all current tax bills. The payment of all outstanding taxes and assessments not paid at settlement are assumed by Purchaser/Borrower.

Purchaser/Borrower and Seller acknowledge that settlement agent and Lender make no representations as to the status of any outstanding or past due water, sewerage or other utility bills applicable to the property. The status of such items shall be determined by and be the responsibility of the Purchaser.

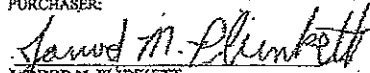
Purchaser and Seller agree that should any inadvertent errors or omissions later be discovered in any documents executed at settlement, they shall promptly execute such corrective documents.

As part of the consideration of this sale, the contract between the parties is by reference incorporated herein and made a part hereof; the terms and conditions contained therein shall not survive the closing and shall not merge upon delivery of the Trustee's Deed.

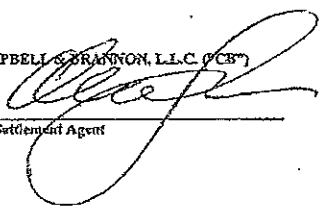
SELLER:

NEIL C. GORDON, AS AND ONLY AS TRUSTEE
FOR THE BANKRUPTCY ESTATE OF CLAUDIO
PABLO AYENDANO

PURCHASER:


JARROD M. PLUNKETT

CAMPBELL & BRANNON, L.L.C. (CB*)

BY: 
Settlement Agent

ACKNOWLEDGEMENT AND RECEIPT OF SETTLEMENT STATEMENT

DATE: November 8, 2016

PURCHASER: JARROD M. PLUNKETT

SELLER: NEIL C. GORDON AS AND ONLY AS TRUSTEE FOR THE BANKRUPTCY ESTATE OF CLAUDIO PABLO AYENDANO

PROPERTY ADDRESS: 155 LIBERTY ROAD, VILLA RICA, GA 30180

Purchaser and Seller acknowledge that each has received, reviewed, and approved the entries appearing on the Settlement Statement, and each acknowledge receipt of a copy of same. Purchaser acknowledges receipt of a copy of the Truth in Lending Disclosures, if any, prior to consummation of the loan transaction. Purchaser further acknowledges receipt and disbursement on his behalf of the loan proceeds in full. Seller acknowledges receipt and payment in full of the proceeds due Seller from the settlement.

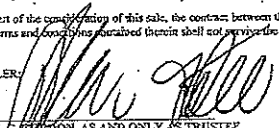
If the preparation of taxes and assessments was made based on estimated amounts prior to receipt of current actual bills, the buyer will be responsible for payment of all current tax bills. The payment of all outstanding taxes and assessments not paid at settlement are assumed by Purchaser/Borrower.

Purchaser/Borrower and Seller acknowledge that settlement agent and Lender make no representations as to the status of any outstanding or past due water, sewerage or other utility bills applicable to the property. The status of such items shall be determined by and are the responsibility of the Purchaser.

Purchaser and Seller agree that should any inadvertent errors or omissions later be discovered in any documents executed at settlement, they shall promptly execute such corrective documents.

As part of the consummation of this sale, the contract between the parties is by reference incorporated herein and made a part hereof; the terms and conditions described therein shall not survive the closing and shall not merge upon delivery of the Trustee's Deed.

SELLER:


NEIL C. GORDON, AS AND ONLY AS TRUSTEE
FOR THE BANKRUPTCY ESTATE OF CLAUDIO
PABLO AYENDANO

PURCHASER:

JARROD M. PLUNKETT

CAMPBELL & BRANNON, L.L.C. ("CB")

BY: _____
Settlement Agent

Certified to be a true copy *Deine Danne*

AFTER RECORDING
PLEASE RETURN TO:
CAMPBELL & BRANNON, L.L.C.
ATTORNEYS AT LAW
5565 GLENRIDGE CONNECTOR
SUITE 350
ATLANTA, GA 30342

G162587D

Return to:
Neil C. Gordon, Esq.
Arnall Golden Gregory LLP
171 17 Street, N.W., Suite 2100
Atlanta, Georgia 30363-1031

STATE OF GEORGIA
COUNTY OF FULTON



Doc ID: 010456940011 Type: TRSD
Recorded: 11/09/2016 at 10:30:00 AM
Fee Amt: \$505.00 Page 1 of 11
Transfer Tax: \$475.00
Douglas County Georgia
TAMMY M HOWARD Clerk Superior Court

BK 3437 PG 816-826

TRUSTEE'S DEED OF REAL ESTATE

THIS INDENTURE, made this 8th day of November, 2016, between NEIL C. GORDON, as and only as Trustee in Bankruptcy of the Estate of CLAUDIO PABLO AVENDANO, the Debtor, in a case now pending in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division, under Case No. 15-64523-PWB, filed on August 3, 2015 (hereinafter called "Grantor"), and JARROD M. PLUNKETT (hereinafter called "Grantee").

Grantor, as owner of record and pursuant to his power as Trustee, as set forth in the copy of the Notice of Chapter 7 Bankruptcy Case and Meeting of Creditors attached as EXHIBIT "A" and by virtue of the power and authority given in and by (a) that Order (the "Sale Order") entered upon the Trustee's Motion to Sell Property Free and Clear of Liens Pursuant to 11 U.S.C. §363(b) and (f), which Sale Order was entered by the United States Bankruptcy Court for the Northern District of Georgia on October 24, 2016, a copy of which is attached as EXHIBIT "B", and in consideration of TEN DOLLARS (\$10.00), lawful money of the United States paid by the Grantee, receipt whereof is hereby acknowledged, and other good and valuable consideration, does hereby grant, bargain, sell, convey and release unto the Grantee, its heirs and assigns forever:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 143, 2ND DISTRICT AND 5TH SECTION OF DOUGLAS COUNTY, GEORGIA, LYING IN THE CITY OF VILLA RICA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT THE SOUTHWEST CORNER OF LAND LOT 143; THENCE RUNNING NORTH 03 DEGREES, 28 MINUTES, 08 SECONDS EAST ALONG THE WEST LAND LOT LINE OF LAND LOT 143 FOR A DISTANCE OF 1,074.36 FEET TO A POINT; THENCE RUNNING NORTH 03 DEGREES, 24 MINUTES, 23 SECONDS EAST ALONG THE WEST LAND LOT LINE OF LAND LOT 143 FOR A DISTANCE OF 343.08 FEET TO THE POINT OF BEGINNING; THENCE RUNNING NORTH 03 DEGREES, 24 MINUTES, 23 SECONDS EAST ALONG THE WEST LAND LOT LINE OF LAND LOT 143 FOR A DISTANCE OF 375.58 FEET TO AN IRON PIN; THENCE RUNNING NORTH 88 DEGREES, 57 MINUTES, 17 SECONDS EAST FOR A DISTANCE OF 87.71 FEET TO AN IRON PIN LOCATED ON THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD; THENCE RUNNING SOUTH 32 DEGREES, 22 MINUTES, 45 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A

MR
Seller's Initials

9299850v1

DISTANCE OF 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 36 DEGREES, 04 MINUTES, 35 SECONDS WEST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 49.97 FEET TO A POINT; THENCE RUNNING SOUTH 38 DEGREES, 48 MINUTES, 16 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 45 MINUTES, 46 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 59 MINUTES, 12 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 45 MINUTES, 03 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 50.00 TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 44 MINUTES, 12 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 53 MINUTES, 21 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 50.00 FEET TO A POINT; THENCE RUNNING SOUTH 40 DEGREES, 23 MINUTES, 46 SECONDS EAST ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF LIBERTY ROAD FOR A DISTANCE OF 50.00 FEET TO AN IRON PIN; THENCE RUNNING SOUTH 85 DEGREES, 31 MINUTES, 58 SECONDS WEST FOR A DISTANCE OF 394.47 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING MORE PARTICULARLY SHOWN ON THAT PLAT OF SURVEY, DATED JULY 13, 2001, PREPARED FOR DOUG DICKINSON, BY DAVID BARTON, GEORGIA REGISTERED LAND SURVEYOR NO. 2533 SAID PLAT OF SURVEY IS INCORPORATED IN THE DESCRIPTION HEREIN BY REFERENCE THERETO.

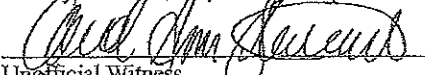
SAID PROPERTY KNOWN GENERALLY AS 155 LIBERTY ROAD, VILLA RICA, DOUGLAS COUNTY, GEORGIA 30180.

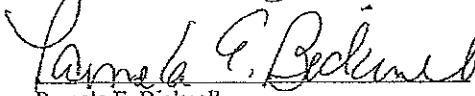
with the appurtenances and all of the estate which the said CLAUDIO PABLO AVENDANO, the Debtor, had in said premises at the time of the filing of his Voluntary Petition for Relief in the United States Bankruptcy Court for the Northern District of Georgia, and also the estate therein which the Grantor had or has power to convey or dispose of as Trustee in Bankruptcy for said Debtor CLAUDIO PABLO AVENDANO, pursuant to the Sale Order (collectively the "Property").

TO HAVE AND TO HOLD the Property herein granted unto the Grantee, its heirs and assigns forever.

IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal the day and year first above written.

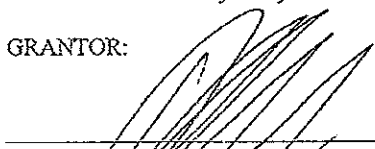
Signed, sealed and delivered on the
8th day of November, 2016 in the presence of:

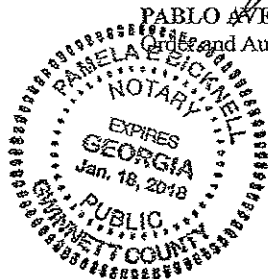

Unofficial Witness


Pamela E. Bicknell
Notary Public
My Commission Expires: January 18, 2018

[NOTARY SEAL]

GRANTOR:


[SEAL]
NEIL C. GORDON, as and only as
Trustee in Bankruptcy for the Estate of CLAUDIO
PABLO AVENDANO, pursuant to Bankruptcy Court
Order and Authorizing the Sale of the Property



United States Bankruptcy Court for the Northern District of Georgia

Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on 8/3/15.

You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side For Important Explanations

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

Claudio Pablo Avendano
PO Box 401
Winston, GA 30187

Case Number:
15-64523-pwb

Social Security / Individual Taxpayer ID / Employer Tax ID / Other nos:
xxx-xx-7553

Attorney for Debtor(s) (name and address):

Claudio Pablo Avendano
PO Box 401
Winston, GA 30187
Telephone number:

Bankruptcy Trustee (name and address):

Neil C. Gordon
Arnall, Golden & Gregory, LLP
Suite 2100
171 17th Street, NW
Atlanta, GA 30363
Telephone number: (404) 873-8596

Meeting of Creditors

Date: September 8, 2015

Time: 01:00 PM

Location: Third Floor - Room 367, Russell Federal Building, 75 Spring Street SW, Atlanta, GA 30303

NOTICE TO DEBTOR(S): Individuals who file bankruptcy must bring two forms of original documentation to their meeting of creditors: photo identification (driver's license, government ID, state photo ID, student ID, U.S. passport, military ID, or resident alien card) and confirmation of their social security number. Additionally, you must provide the trustee whose name appears above with a copy of your most recently filed income tax return. This should be provided at least 7 days before the meeting of creditors. **DO NOT FILE YOUR TAX RETURN WITH THE COURT.** Please bring a copy of this notice with you to the Meeting of Creditors. Cellular phones and other devices with cameras will NOT be allowed beyond security checkpoints.

Presumption of Abuse under 11 U.S.C. § 707(b)

See "Presumption of Abuse" on reverse side.

Insufficient information has been filed to date to permit the clerk to make any determination concerning the presumption of abuse. If more complete information, when filed, shows that the presumption has arisen, creditors will be notified.

Deadlines:

Papers must be received by the bankruptcy clerk's office by the following deadlines:

Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts: 11/9/15

Deadline to Object to Exemptions:

Thirty (30) days after the conclusion of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

Creditor with a Foreign Address:

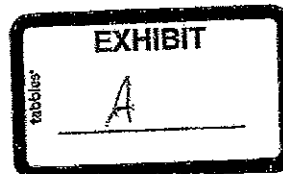
Creditors receiving this notice at a foreign address should read "Do Not File a Proof of Claim at This Time" on the reverse side.

Address of the Bankruptcy Clerk's Office:
1340 Russell Federal Building
75 Spring Street, SW
Atlanta, GA 30303
Telephone number: 404-215-1000

For the Court:
Clerk of the Bankruptcy Court:
M. Regina Thomas
See our website: www.ganb.uscourts.gov

Hours Open: Monday - Friday 8:00 AM - 4:00 PM

Date: 8/4/15



EXPLANATIONS

B9A (Official Form 9A) (12/11)

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	Neither the Court nor the staff of the bankruptcy clerk's office can give you legal advice. You may want to consult an attorney to protect your rights.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code §362. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Presumption of Abuse	If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. <i>The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.</i> Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time.</i> If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code §727(a) or that a debt owed to you is not dischargeable under Bankruptcy Code §523(a)(2), (4), or (6), you must file a complaint — or a motion if you assert the discharge should be denied under §727(a)(8) or (a)(9) — in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. The bankruptcy clerk's office must receive the complaint or motion and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objections by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office. (See below for additional information regarding telephone and internet access to Bankruptcy Court records). See our website: www.ganb.uscourts.gov
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.
Refer to Other Side for Important Deadlines and Notices	
An automated response for further information on this case is available 24 hours daily by calling the Multi-Court Voice Case Information System (MCVCIS) toll free number 866-222-8029, and after the initial greeting, press #, then enter 18 (court code) for Georgia Northern Bankruptcy Court. Please have the case number, social security number or debtor name available when calling.	
You may visit the Bankruptcy Court to view case information free of charge. Case information may then be printed for 10 cents per page. Members of the bar and the public may access Court records at any time, by obtaining an account with the PACER (Public Access to Court Electronic Records) Service Center (800-676-6856). PACER access is available via the Internet at www.pacer.gov . The cost to use PACER is ten (10) cents per page up to a maximum of \$3.00 per document.	



IT IS ORDERED as set forth below:

Date: October 24, 2016

Paul W. Bonapfel
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In Re:	:	
	:	
CLAUDIO PABLO AVENDANO,	:	CASE NO. 15-64523-PWB
	:	
Debtor.	:	CHAPTER 7
	:	
<hr/>		
NEIL C. GORDON, Trustee for the	:	
Estate of Claudio Pablo Avendano,	:	
	:	
Movant,	:	CONTESTED MATTER
	:	
V.	:	
	:	
JERRY E. AUSTIN,	:	
LAWSON REALTY, LLC,	:	
DOUGLAS COUNTY TAX	:	
COMMISSIONER, and	:	
CLAUDIO PABLO AVENDANO,	:	
	:	
Respondents.	:	

ORDER

Before the Court for hearing on October 20, 2016 (the "Hearing"), came the

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Trustee's Motion for (I) Approval of Bidding and Auction Procedures, (II) Authority to (A) Sell Real Property of the Estate Free and Clear of Liens, Interests, and Encumbrances, and (B) Disburse Certain Proceeds at Closing, and (III) Turnover of Commercial Property Prior to Closing of Proposed Sale [Doc. No.113] filed on September 26, 2016 (the "Sale Motion") pursuant to 11 U.S.C. §§363(b) and (f) by Neil C. Gordon, Chapter 7 Trustee (Trustee) for the bankruptcy estate of Claudio Pablo Avendano ("Debtor"). In the Sale Motion, Trustee seeks authority, pursuant to 11 U.S.C. §§ 363(b) and (f), to sell (the "Sale") that certain commercial real property known generally as 155 Liberty Road, Villa Rica, Douglas County, Georgia 30180 (the "Commercial Property") as set forth in paragraph 23 of the Sale Motion and to make certain disbursements requested therein. With the Sale Motion, Trustee presents a *Trustee's Purchase and Sale Agreement* (the "Contract") which set forth the provisions of the Sale of the Commercial Property to Greg Daniel ("Mr. Daniel") for the purchase price, subject to no commission, of \$415,000.00 (the "Purchase Price") of which twenty thousand (\$20,000.00) had already been provided to Trustee as a good faith earnest money deposit (the "Good Faith Deposit"). Pursuant to paragraph 23 of Sale Motion, Trustee invited all other bids qualified by submission of a cash bid exceeding the present Contract by at least \$12,000.00 (the "Overbid Protection Amount") and supported by earnest money of at least \$20,000.00.

Also in the Sale Motion, Trustee requested an order compelling Debtor to turn over the Commercial Property prior to the closing of the proposed sale (the "Closing"). It appears to the Court that all creditors and parties in interest were given notice of the Sale Motion and Hearing and the opportunity to object to the Sale Motion.

Debtor filed, *pro se*, his *Opposition to Trustee's Sale Motion* [Doc. No. 119] on October 11, 2016 ("Debtor's Objection"). On October 19, 2016, creditors Jerry E. Austin ("Mr.

Austin”) and Lawson Realty Inc. (collectively, “Austin & Lawson Realty”) filed their response in support of Trustee’s Sale Motion [Doc. No. 121]. No other objections or responses were filed by any party.

At the Hearing, Neil C. Gordon appeared as counsel to Trustee. Also present were Debtor, Victor J. Harrison (“Mr. Harrison”), counsel to Austin & Lawson Realty, Marty P. Ochs, counsel to the United States Trustee, Mr. Daniel, and John J. McManus (“Mr. McManus”) counsel to Jarrod M. Plunkett (“Mr. Plunkett”), who was also present at the Hearing. Prior to the Hearing, Mr. McManus on behalf of Mr. Plunkett presented Trustee with a qualifying letter for the Overbid Protection Amount and an official bank check for the earnest money deposit of \$20,000.00, and Mr. Plunkett became the only Qualified Bidder, besides Mr. Daniel.

At the Hearing, Mr. Gordon presented to the Court, without contradiction, the Bidding Procedures, as defined in the Sale Motion, and represented that Mr. Plunkett and Mr. Daniel were the only Qualified Bidders. The Court found the Debtor’s Objection to be without merit and overruled it. No other creditor or party in interest was present at the Hearing or filed an objection to the Sale Motion. The Bidding Procedures and Auction Procedures as set forth in the Sale Motion were approved, and Trustee conducted an auction outside the presence of the Court (the “Auction”).

Following the Auction, the Hearing reconvened and Trustee presented Mr. Plunkett as the successful bidder at a bid price of \$475,000.00 (the “Successful Bid Price”), subject to no realtor commission. Mr. Daniel will stand as the backup bidder at a bid price of \$472,000.00 (the “Backup Bid Price”), subject to no realtor commission. Based upon the presentations at the Hearing, the record in the case, the stipulations by the parties, and good cause having been

shown, it is hereby

ORDERED that the Debtor's Objection is **OVERRULED**, the Sale Motion is **GRANTED**, and Trustee is authorized to sell the Commercial Property to Mr. Plunkett at the Successful Bid Price at the earliest date that the Sale of the Commercial Property can be closed and the possession thereof surrendered. It is further

ORDERED that Trustee is authorized and directed to return to Mr. Daniel his Good Faith Deposit in the amount of \$20,000.00. It is further

ORDERED that, if for any reason, Mr. Plunkett does not or is unable to close on the Sale, Trustee is authorized to sell the Commercial Property to Mr. Daniel immediately thereafter at the Backup Bid Price. It is further

ORDERED that Trustee is authorized and directed to disburse at the Closing from the net proceeds \$380,000.00 to Mr. Austin as a partial payment on the first mortgage note (the "Austin Partial Payment"). The Austin Partial Payment shall be made payable to Jerry E. Austin, care of Mr. Harrison, and delivered to Victor J. Harrison, Esq., Harrison & Horan, P.C., 3150 Golf Ridge Boulevard, Suite 101, Douglasville, Georgia 30135. It is further

ORDERED that, as agreed at the Hearing by Trustee and Mr. Harrison, as counsel to Mr. Austin, Trustee is authorized and directed to either endorse over to Debtor the two lease payment checks from tenant NB Contracting totaling \$900.00, or return them to NB Contracting upon proof that NB Contracting has reissued such payment amount directly to Debtor¹. It is further

ORDERED that within two (2) weeks of entry of this Order and prior to the Closing on the Sale, Debtor shall turn over the Commercial Property, leaving the Commercial Property with all fixtures and appurtenances remaining attached thereto, and removing all personal property

¹ Proof of NB Contracting's reissued check payable directly to Debtor in the amount of \$900.00 is attached hereto and incorporated herein by reference.

therefrom. It is further ordered that any personal property remaining thereafter shall be deemed abandoned by Debtor. It is further

ORDERED that Fed. R. Bankr. P. 6004(h) shall not apply to this Order, which shall be effective immediately so that the Trustee may proceed *instanter* with the sale of the Commercial Property closing, at which time the gross sale proceeds shall be paid to the Trustee pursuant to this Order, and those disbursements requested by the Trustee in the Sale Motion as modified herein are authorized to be made.

[END OF DOCUMENT]

Prepared and presented by:

ARNALL GOLDEN GREGORY LLP

By: /s/ Neil C. Gordon

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Attorneys for Chapter 7 Trustee

Read by:

OFFICE OF THE U.S. TRUSTEE

By: /s/ Marty P. Ochs

Marty P. Ochs
State Bar No. 091608
[Signed by Neil C. Gordon with "express
Permission granted on October 21st, 2016.]
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DISTRIBUTION LIST

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