

DONALD W. FITZGERALD, State Bar No. 095348
JASON E. RIOS, State Bar No. 190086
FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP
400 Capitol Mall, Suite 1750
Sacramento, CA 95814
Telephone: (916) 329-7400
Facsimile: (916) 329-7435
dfitzgerald@ffwplaw.com
jrios@ffwplaw.com

Attorneys for the Chapter 11 Trustee,
Hank M. Spacone

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:
SHASTA ENTERPRISES,
Debtor.

CASE NO.: 14-30833-A-11

Chapter 11

DCN: FWP-8

Date: June 9, 2015

Time: 10:00 a.m.

Judge: Hon. Michael S. McManus

Courtroom: 28, Department A

**ORDER GRANTING TRUSTEE'S MOTION FOR AUTHORITY TO SELL REAL
PROPERTY (5685 AVIATION WAY, REDDING, CALIFORNIA 96002) PURSUANT
TO SECTION 363 OF THE BANKRUPTCY CODE AND TO PAY COSTS OF SALE
INCLUDING BROKER'S COMMISSION**

On June 9, 2015, the motion ("Motion") of Hank M. Spacone, the duly-appointed Chapter 11 trustee in the above-referenced bankruptcy case ("Trustee"), for an order (1) approving sale of the real property commonly known as 5685 Aviation Way, Redding, California 96002, including all fixtures and fittings attached to the property (collectively the "Real Property") to the City of Redding REU Department (the "Buyer"), subject to overbidding, pursuant to section 363 of Title 11 of the United States Code (the "Bankruptcy Code"), (2) authorizing the Trustee to pay the real property taxes for the Real Property through and including the closing date, including past due property taxes in the estimated amount of \$581.72, (3) authorizing the Trustee to pay such other costs and expenses allocated to the seller under the

Order Granting Trustee's Motion for
Authority to Sell Real Property

RECEIVED

June 15, 2015

CLERK, U. S. BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
0005547584

1 proposed sale agreement, and (4) authorizing the Trustee to pay the broker's commission from
2 the sale proceeds came on for hearing. Jason E. Rios of Felderstein Fitzgerald Willoughby &
3 Pascuzzi LLP appeared on behalf of the Trustee. Other appearances were noted on the record.

4 No opposition to the Motion was filed or presented at the hearing on the Motion. No
5 persons or other potential buyers appeared at the hearing or otherwise presented any request to
6 overbid on the proposed sale of the Real Property to the Buyer.

7 Upon consideration of the Motion and the pleadings and evidence submitted in support
8 of the Motion, the Court finding that notice of the Motion was sufficient, and the Court having
9 made its findings of fact and conclusions of law on the record, and for good cause shown,

10 IT IS HEREBY ADJUDGED AND ORDERED THAT:

11 1. The Motion is GRANTED.

12 2. The Trustee is authorized to sell the Real Property, which is currently identified by
13 APN# 054-840-004, to the Buyer pursuant to the terms, conditions, and transactions provided by
14 the Sale Agreement entered into by the Trustee and the Buyer dated as of March 24, 2015,
15 including all addenda and duly authorized amendments, and including the Buyer's agreement to
16 (i) pay \$139,175 to the Estate¹, and (ii) release to the Estate \$25,000 being held in a previous
17 escrow account. The sale of the Real Property is authorized and approved pursuant to the
18 provisions of Section 363(b) and (c) of the Bankruptcy Code.

19 3. Pursuant to Section 363(b) of the Bankruptcy Code, the Trustee is authorized and
20 empowered to fully perform under, consummate, and implement the Sale Agreement and to take
21 all actions reasonably required to fulfill his obligations under the Sale Agreement, including
22 without limitation executing all documents in connection with the sale transaction approved by
23 this Order.

24 4. The Trustee is authorized and directed to pay directly from the sale proceeds
25 through escrow all amounts due or necessary to satisfy the following obligations as of the closing
26 date under the Sale Agreement, which are secured by the following liens and encumbrances or an
27 administrative expense of the Estate:

28 ¹ Capitalized terms not defined herein shall have the meaning as defined in the Motion.

1 a. All real property taxes and assessments pro-rated as of the closing date, in
2 the approximate amount of \$581.72, as shall be finally approved by the Trustee through escrow.

3 b. The brokers' commission(s) in accordance with the listing agreement
4 previously approved by the Court in the estimated amount of \$8,208.75, which may be split 50/50
5 with a buyer's broker.

6 5. The Trustee is authorized to pay through escrow all other items, if any, payable at
7 closing by the Trustee, as seller, including any closing costs and related fees and expenses, in
8 accordance with the terms of the Sale Agreement. All net proceeds of sale shall be paid over to
9 the Trustee on behalf of the Estate at close of escrow.

10 6. The Sale Agreement and any related agreements, documents, or other instruments
11 may be modified, amended, or supplemented by the parties thereto in accordance with the terms
12 thereof without further order of this Court, provided that any such modification, amendment, or
13 supplement is designed to conform the Sale Agreement or is otherwise not materially adverse to
14 the interests of the Chapter 11 Estate.

15 7. The provisions of Federal Rule of Bankruptcy Procedure 6004(h) are hereby
16 waived so that this Order shall be effective and enforceable immediately upon entry.

17 8. This Court shall retain jurisdiction to hear and determine all matters arising from
18 the interpretation and implementation of this Order.

19
20 Dated: June 15, 2015

By the Court

21
22 
23 Michael S. McManus
24 United States Bankruptcy Judge
25
26
27
28