

1 JOHN N. TEDFORD IV (State Bar No. 205537)
jtedford@dgdk.com
2 KEVIN D. MEEK (State Bar No. 280562)
kmEEK@dgdk.com
3 DANNING, GILL, DIAMOND & KOLLITZ, LLP
1900 Avenue of the Stars, 11th Floor
4 Los Angeles, California 90067
Telephone: (310) 277-0077
5 Facsimile: (310) 277-5735

6 Attorneys for David A. Gill, Receiver

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 vs.

14 WESTMOORE MANAGEMENT,
15 LLC; WESTMOORE INVESTMENT,
LP.; WESTMOORE CAPITAL
16 MANAGEMENT, INC.;
WESTMOORE CAPITAL, LLC; and
17 MATTHEW R. JENNINGS,

18 Defendants.

Case No. 8:10-cv-00849-AG (MLGx)

**NOTICE OF MOTION FOR
ORDER AUTHORIZING
RECEIVER TO SELL REAL
PROPERTY (231 BELMONT
AVENUE EAST, UNITS 406 AND
409, SEATTLE, WASHINGTON)
AND PAY BROKERAGE
COMMISSIONS AND CLOSING
COSTS**

Date: March 12, 2012
Time: 10:00 a.m.
Place: Courtroom 10D
411 West Fourth Street
Santa Ana, California

19
20 **PLEASE TAKE NOTICE** that David A. Gill, the permanent receiver (the
21 “Receiver”) appointed in the above-captioned case, has filed a motion for an order
22 authorizing the Receiver to sell Belmont Lofts condominium units 406 and 409, 231
23 Belmont Avenue East, Seattle, Washington, to Homa Irajpanah (the “Buyer”) for
24 \$165,000 (unit 406) and \$175,000 (unit 409). The Receiver also is requesting that
25 the order authorize the Receiver to pay (a) outstanding real property taxes,
26 (b) assessments by the Belmont Lofts Owners Association, (c) real estate brokerage
27 commissions, and (d) ordinary and customary closing costs, such as escrow and title
28 fees and transfer taxes.

1 The motion is based on the following grounds: Westmoore Management, LLC
2 (“WM Management”), owns three condominium units in the Belmont Lofts
3 condominium complex in Seattle, Washington. In December 2011, the Receiver
4 retained Allison James Estates & Homes (“Allison James”) to assist the Receiver in
5 marketing and selling the units. The Receiver received offers from multiple parties
6 for units 406 and 409 and, employing a procedure customarily used by sellers in the
7 Seattle area of properties such as the condominiums, requested that the parties submit
8 their highest and best offers.

9 Subject to Court approval, the Receiver has agreed to sell units 406 and 409 to
10 the Buyer for \$165,000 and \$175,000, respectively. The sales are not subject to any
11 financing contingencies, and all contingencies other than Court approval have been
12 satisfied or waived. Each sale is on an “as is” and “where is” basis without any
13 representations, warranties or recourse whatsoever.

14 The only known liens and similar encumbrances against units 406 and 409
15 consist of (a) unpaid real property taxes, including taxes assessed in 2010 and 2011,
16 and (b) assessments by the Belmont Lofts Owners Association (the “Association”)
17 which have been reduced to judgment. The Receiver is requesting authority to pay
18 the real property taxes and the Association’s judgment from escrow.

19 Pursuant to an Exclusive Sale and Listing Agreement entered into on or about
20 December 19, 2011, subject to Court approval, Allison James is entitled to receive a
21 commission of 6.0% of the gross sales price. The Receiver is requesting authority to
22 pay the commission (\$9,900 for unit 406 and \$10,500 for unit 409) to Allison James
23 from escrow upon closing. The Receiver also requests authority to pay closing costs,
24 such as escrow and title fees and transfer taxes, from escrow upon closing.

25 The Receiver believes that his proposed sales of units 406 and 409 are in the
26 best interests of WM Management and its estate. After the payment of real property
27 taxes, the Association’s judgment, brokerage commissions and the closing costs, the
28 Receiver estimates that the net sales proceeds will be approximately \$275,000.

1 This motion is based on this notice, the motion and its accompanying
2 Memorandum of Points and Authorities, declarations of David A. Gill and Doug
3 Fischer, and Request for Judicial Notice, the papers and pleadings filed with the
4 Court in this case, and such other papers and pleadings as may be properly presented
5 to the Court at or before the hearing on the motion.

6 **PLEASE TAKE FURTHER NOTICE** that a copy of the motion is available
7 for download at the Receiver's website: www.westmoorereceivership.com.

8 **PLEASE TAKE FURTHER NOTICE** that pursuant to an order of the Court,
9 the Receiver is authorized to serve this notice of the motion by posting the notice on
10 the Receiver's website. Service of the notice is deemed complete upon the posting of
11 the notice on the website.

12 **PLEASE TAKE FURTHER NOTICE** that Local Rule 7-9 requires that, not
13 later than twenty-one (21) days before the date designated for the hearing on the
14 motion, any party who opposes the motion file with the Court and serve upon the
15 Receiver such opposing party's opposition to the motion together with all evidence
16 upon which the party intends to rely in opposition to the motion. Failure to timely
17 comply with this requirement may be deemed by the Court to constitute consent to
18 the granting of the motion.


19

20 DATED: February 13, 2012

DANNING, GILL, DIAMOND &
KOLLITZ, LLP

21

22

By: 

23

JOHN N. TEDFORD IV

24

Attorneys for David A. Gill, Receiver

25

26

27

28

1 **PROOF OF SERVICE**

2 At the time of service, I was over 18 years of age and **not a party to this**
3 **action.** I am employed in the County of Los Angeles, State of California. My
4 business address is 1900 Avenue of the Stars, 11th Floor, Los Angeles, CA 90067-4402.

5 On February 13, 2012, I served true copies of the following document(s)
6 described as **NOTICE OF MOTION FOR ORDER AUTHORIZING RECEIVER TO SELL REAL PROPERTY (231 BELMONT AVENUE EAST, UNITS 406 AND 409, SEATTLE, WASHINGTON) AND PAY BROKERAGE COMMISSIONS AND CLOSING COSTS** on the interested parties in this action
7 as follows:

8 **SEE ATTACHED SERVICE LIST**

9 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package
10 addressed to the persons at the addresses listed in the Service List and placed the
11 envelope for collection and mailing, following our ordinary business practices. I am
12 readily familiar with Danning, Gill, Diamond & Kollitz, LLP's practice for collecting
13 and processing correspondence for mailing. On the same day that the
14 correspondence is placed for collection and mailing, it is deposited in the ordinary
15 course of business with the United States Postal Service, in a sealed envelope with
16 postage fully prepaid.

17 **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed
18 the document(s) with the Clerk of the Court by using the CM/ECF system.
19 Participants in the case who are registered CM/ECF users will be served by the
20 CM/ECF system. Participants in the case who are not registered CM/ECF users will
21 be served by mail or by other means permitted by the court rules.

22 I declare under penalty of perjury under the laws of the United States of
23 America that the foregoing is true and correct and that I am employed in the office of
24 a member of the bar of this Court at whose direction the service was made.

25 Executed on February 13, 2012, at Los Angeles, California.

26 
27 _____
28 CINDY CRIPE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Proposed purchaser
Homa Irajpanah
1126 SW 320th Place
Federal Way, WA 98023

Attorneys for Belmont Lofts Owners Ass'n
Ronald G. Housh, Esq.
Law Offices of Ronald G. Housh
800 Fifth Avenue, Suite 4000
Seattle, WA 98104

Receiver's real estate broker
Doug Fischer
Allison James Estates & Homes
9757 NE Juanita Dr., Suite 121B
Kirkland, WA 98034

Parties requesting service of notices by mail
Eleanor M. Egan Living Trust
ATTN: Eleanor Egan, Trustee
1893 Parkview Circle
Costa Mesa, CA 92627

Phyllis Fredericks
3718 Oakview Court
Fallbrook, CA 92028