

BARRY PETERS  
BARRY PETERS, ATTORNEY AT LAW, P.A.  
101 Eagle Glen Lane, Suite A  
Eagle, Idaho 83616  
Telephone No. (208) 939-2600  
Facsimile No. (208) 939-2692

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U.S. COURTS  
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CASSIDY S. BURKE  
CLERK IDAHO

Attorney for Trustee

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

In re: )  
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DAVID SILVA and )  
SHARON SELMASKA, )  
 )  
Debtors. )  
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Case No. 93-02385-JDP  
**NOTICE OF TRUSTEE'S MOTION  
FOR APPROVAL OF COMPROMISE  
AND SALE AND NOTICE OF  
HEARING**

YOU ARE HEREBY NOTIFIED that JOHN KROMMENHOEK, the Trustee herein, has filed with this Court a Motion for Approval of Compromise and Sale of Estate Assets upon the terms, conditions, and otherwise as are set forth below unless a party in interest files a written objection with the Court clearly stating the basis therefor, and serves a copy upon the undersigned attorney for the Trustee, at least three (3) days prior to the hearing set on this Motion.

**MOTION FOR APPROVAL OF COMPROMISE**

During the pendency of this bankruptcy proceeding the Trustee has filed certain claims and cross-claims in connection

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COMPROMISE AND SALE AND NOTICE OF HEARING - 1.**

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with San Diego County Superior Court Case No. 694631 (*Zimmerman v. Wussler*), Idaho Bankruptcy Court Adversary Proceeding No. 94-06203 (*Wussler v. Silva*), and United States District Court, District of Idaho, Case No. CV-97-06511-S-EJL (*Wussler v. Krommenhoek*). These interrelated claims and cross-claims arose from the \$205,000.00 claim and nondischargeability complaint filed by Barbara Wussler. The Trustee's claims and cross-claims relate to the estate's potential claims to a business and certain residential real estate located in California. In addition, the Trustee has obtained a Sanction Order in an unliquidated amount against Barbara Wussler, William A. "Doc" Wussler, and The Court Room, Inc. However, that Sanction Order is presently under appeal in connection with United States District Court Case No. CV-97-0511-S-EJL, above.

In a separate matter, the Trustee has obtained a Judgment against First Fidelity Bank N.A., New Jersey in the current amount of approximately \$70,000.00. After the judgment was entered, the bank moved to set aside that Judgment. When the Bankruptcy Court reaffirmed the Judgment, the bank filed an appeal claiming that the Court lacked jurisdiction to enter the Judgment. The Trustee is awaiting the U.S. District Court decision on that appeal.

In an effort to compromise these conflicting claims and to expedite the closing of this bankruptcy estate, the Trustee has moved the Court for approval of a compromise with Barbara Wussler, William A. "Doc" Wussler, and The Court Room, Inc. on the following terms:

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1. The estate's claims in the San Diego litigation will be sold at open auction to the highest bidder;

2. In exchange, the Trustee will waive any funds to which he might be entitled under the Sanction Order which is on appeal;

3. The estate assets (from the sale of the Trustee's claims and cross-claims as described above, plus the funds recovered under the Judgment against the New Jersey Bank) will be disbursed after separate court approval as follows:

a. Payment of administrative expense claims (approximately \$40,000.00);

b. Payment of priority claims (approximately \$5,000.00); and

c. The remaining balance will then be divided between the unsecured creditors with 50% being paid to Barbara Wussler on her approved unsecured claim of \$205,000.00 and 50% being paid *pro rata* to the other unsecured creditors on their approved unsecured claims in the aggregate amount of \$15,000.00. When the other unsecured creditors have been paid in full, any remaining funds will then be paid 100% to Barbara Wussler on her remaining allowed unsecured claim.

Under this compromise the Trustee hopes to accomplish two things. First, he and the estate will be dismissed from the time-consuming, expensive, and acrimonious litigation in which they have

been involved for several years. Second, the unsecured creditors (other than Barbara Wussler) should recover a substantial amount of their claims, possibly 100% of those claims.

**MOTION FOR APPROVAL OF SALE OF ESTATE ASSETS**

Pursuant to the terms of the foregoing compromise, the Trustee has also moved for the Court's approval of the sale of said causes of action according to the following terms:

1. Description of Property to Be Sold: All of the bankruptcy estate's interest in and to all of the estate's claims and cross-claims in connection with the San Diego County Superior Court Case No. 694631 (*Zimmerman v. Wussler*), Idaho Bankruptcy Court Adversary Proceeding No. 94-06203 (*Wussler v. Silva*), and United States District Court, District of Idaho, Case No. 97-0511-S-EJL (*Wussler v. Krommenhoek*). The Trustee shall not be selling or liquidating any claim or cross-claim which the debtors may hold in connection with the foregoing matters.

2. Type of Sale: Public Auction to be conducted by John Krommenhoek.

3. Time and Place of Sale: On or after 10:00 o'clock A.M. (MST) on the 5th day of May, 1998, at the offices of BARRY PETERS, ATTORNEY AT LAW, P.A., the attorney for the Trustee, located at number 101 Eagle Glen Lane, Suite A, Eagle, Idaho. Up to two (2) prospective purchasers may participate by telephone if arranged at least one day prior to the sale date.

4. Terms of Sale: The proposed sale shall be a cash sale. The purchase price must be paid in full within seven (7) days after the conclusion of the sale.

5. Value of Property: The estimated fair market value of the property to be sold is at least \$1,000.00 based upon the written offer received from Barbara Wussler. Additional value will also accrue to the creditors of this estate by virtue of the other terms of the foregoing compromise.

6. Liens: The Trustee is not aware of any liens against the property.

7. Treatment of Existing Liens: Said sale shall be free and clear of all liens. Any existing liens which may be hereafter discovered shall attach to the proceeds of sale.

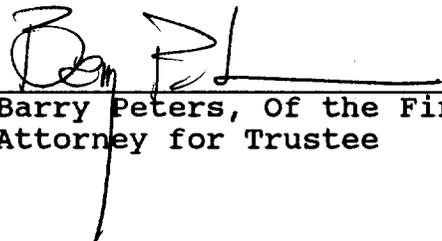
8. Authority of Sale: If it is later discovered that some entity other than the estate has an interest in the assets to be sold, the sale shall be conducted pursuant to the provisions of Section 363(f)(1), 363(f)(4) and/or 363(f)(5) of the *Bankruptcy Code*.

9. Disposition of Proceeds: Trustee shall retain the net proceeds of sale (after deduction of any costs of sale). The Trustee ultimately intends to seek court approval of the distribution of the sales proceeds in the manner described above, but only after separate court authorization has been obtained.

YOU ARE HEREBY FURTHER NOTIFIED THAT the Court will conduct a hearing upon the Trustee's Motions, and any objections thereto, on the 30th day of April, 1998, at 9:30 o'clock, A.M. (MST) in the courtroom of said Court located at 550 West Fort Street, Fifth Floor, Boise, Idaho 83724.

DATED this 6<sup>th</sup> day of April, 1998.

BARRY PETERS, ATTORNEY AT LAW, P.A.

By   
Barry Peters, Of the Firm  
Attorney for Trustee

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