

SAMUEL H. SLOAN
2550 Webster Street
San Francisco CA 94115
samhsloan@gmail.com
917-507-7226
917-659-3397

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

| | | |
|----------------|---|----------------------------------|
| In re: |) | |
| |) | Case No. C10-0204 SI |
| ARDEN VAN UPP, |) | |
| |) | Chapter 11 |
| Debtor. |) | |
| |) | On Appeal From Case No. 09-31932 |
| |) | United States Bankruptcy Court |

MOTION TO THIS COURT TO TAKE PLENARY OR FULL JURISDICTION
OVER THIS CASE, TO STAY ALL PROCEEDINGS INCLUDING THE SALE
OF 2550 WEBSTER STREET PENDING HEARINGS AND ULTIMATELY TO
DISMISS THIS CHAPTER 11 BANKRUPTCY PROCEEDING

Samuel H. Sloan, being duly sworn, deposes and says:

1. I hereby move this court to take full jurisdiction over this case in accordance with *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982), so that this case will remain in this court and will never go back to the bankruptcy courts. In summary, the debtor in this case has assets with an appraised value of \$12 million and liabilities of well under \$3 million, and thus has equity of \$9 million. The debtor and myself have repeatedly made motions to dismiss this Chapter 11 Bankruptcy Proceeding. These motions have just as repeatedly been denied by the Bankruptcy Court. The actions of the bankruptcy court and by the trustee far exceed the constitutional authority of those courts as set forth in *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). I am asking this court to remove the bankruptcy judge from this case. This court and the Judicial Council have the power to remove a bankruptcy judge for cause, but the BAP does not have that power. Therefore, this court should take original jurisdiction over this case.

2. I hereby move this court to remove David A. Bradlow as trustee in bankruptcy in this case. Mr. Bradlow is a criminal. He has engaged in

a variety of illegal activities to line his pockets, the most obvious being that he insists on selling the house at 2550 Webster Street for the paltry sum of \$2.79 million, whereas the currently appraised value of the house according to the trustee's own figures filed in court is \$7.5 million.

3. The basic facts of this case are as follows: The debtor in this case has or had become wealthy through investments in real estate, including buildings she purchased during the period 1967-1973. She owns three buildings. Two are apartment houses from which she collects rents. The other is her private mansion at 2550 Webster Street, where she lives. The 2550 Webster Street mansion is a historic building known as the Bourn House. On tourist maps of San Francisco, you will see the Bourn House shown as an important tourist landmark. It was built in 1896 by Amos Bourn, the richest man in California at the time. There is a book about this, *Last Bonanza Kings: The Bourns Of San Francisco*, University of Nevada Press, ISBN 0874173191.

4. The Bourn Mansion was purchased by the debtor in 1973. Since that time, until a few months ago, the debtor had almost never allowed anybody inside the house other than workmen, except for me and her daughter, Tammy. The front door was sealed shut. However, since the appointment of a trustee, the doors of the house have been opened to all and sundry. Anybody can walk through it, except for the debtor herself and me. We have been barred from our own residence by the bankruptcy judge and by the trustee. Even a mentally ill, homeless person has moved in and has taken residence as a squatter on the top floor of the house.

5. I have known the debtor since 1966 and I have resided in the Bourn Mansion since 1991. The building is on my website at <http://www.anusha.com/bourn.htm>

6. In the 1990s, the City of San Francisco brought proceedings to Earthquake Retrofit the Bourn Mansion. It does not need earthquake retrofitting because it is built on solid rock at the pinnacle of Pacific Heights, far from any fault zone. It was built in 1896 and easily survived the San Francisco earthquakes of 1906 and 1989.

7. The debtor finally complied but the City of San Francisco sued her for \$500 per day for each day she delayed the Earthquake Retrofitting. The City of San Francisco obtained a default judgment in the amount of \$617,000, although by then the Earthquake Retrofitting had been completed. On August 31, 1999, the San Francisco Superior Court entered judgment for the City and County of San Francisco and against Debtor Arden Van Upp in the amount of \$617,344.25, in San Francisco Superior Court number 300-674. On January 19, 2005, the City filed and recorded a renewal of the

judgment, which with interest increased the amount of the judgment to \$950,371.87.

8. Because of this huge default judgment, the debtor was unable to refinance her buildings. This plus the current credit crunch caused her to become delinquent in her mortgage payments in January 2009.

9. On October 16, 2008, the default judgment for \$950,371.87 in favor of the City of San Francisco was set aside for failure to serve process. A copy of the order vacating the default judgment is annexed hereto as Exhibit A.

10. However, the city refused to remove the lien it had placed on her properties. Finally, on June 26, 2009, the City of San Francisco was forced to remove the lien from her properties. A copy of this release of lis pendens is annexed hereto as Exhibit B. These documents are included in item #118 of the PACER file in the bankruptcy court. Because of this, she was now able to raise the funds from lenders to refinance her properties.

11. However, before she could do that, one of the mortgage holders initiated foreclosure proceedings. On July 10, 2009, on the day before he was about to foreclose, she filed for Chapter 11 Bankruptcy as a temporary measure to give her time to refinance. However, just as she was in the process of concluding a deal to refinance her properties, the federal bankruptcy judge, on September 29, 2009, without notice and the opportunity for a hearing, appointed a trustee.

12. The trustee gets his fees of \$425 per hour plus a commission of 6% on any of her properties he sells. Her three buildings combined have a currently appraised value of \$12.5 million. Her debt on these buildings is less than \$3 million. Thus, her equity in these buildings is \$9.5 million.

13. The trustee wants that money for himself. Therefore, he is refusing to allow her to refinance, even though she has months ago raised the money to refinance all of her properties. The trustee is proceeding with the sale of all of her properties to his friends at prices far below the market value of the buildings. He is selling them so low that she will get nothing and will become a homeless shopping cart lady, pushing her shopping cart up and down the streets, when this is over. Meanwhile, the trustee will be basking in the great wealth he will have gained from stealing her money. After the trustee takes his cut and his fees and all the people he has appointed get their fees and the IRS takes their huge capital gains taxes, the debtor will be left with exactly nothing, zero, and the entire estate of \$9 million will have been entirely wasted away.

14. The same thing happened to the mother of the debtor, Doris Rich, who had a net worth of \$1.5 million when a conservator was appointed. All of the money had evaporated when Doris Rich died a few years later.

15. While this case has been pending, several major or significant financial institutions have made offers and financial commitments to refinance all three of her properties, including the Webster Street property, so that she (and I) can continue to live in her house. However, the trustee has ignored these offers because he wants to sell the properties so that he can get the money. An example of one of the many loan commitments she has received to refinance the properties is annexed hereto and marked Exhibit C.

16. Therefore, the debtor and I have filed repeated motions to dismiss the bankruptcy proceeding. An escrow account with \$4.1 million in it has been established with Fidelity Title Company, so that as soon as this bankruptcy proceeding is dismissed she will be able to refinance the three properties instantly. One of the many motions to dismiss this bankruptcy proceeding is annexed hereto and marked Exhibit D. Chapter 11 Bankruptcy is supposed to provide temporary protection. If she does not want to be protected, what right does a judge have to refuse to let her go free and fend for herself in this cruel world? The bankruptcy judge has five times denied motions by the debtor to dismiss her own bankruptcy petition. She is being held prisoner, while all of her property is being sold at prices far below the market values.

17. The corruption or incompetence of the bankruptcy court is demonstrated by the fact that on the day after this Notice of Appeal was filed and several hours AFTER this notice of appeal was entered, the bankruptcy judge entered a new order to sell the mansion for \$2.7 million to a new buyer, a recently or not yet formed LLC called "Pacific Heights LLC", even though the trustee had made an Ex Parte Application to sell this property to that legal entity on only the previous day. The bankruptcy judge thus violated his own rules for the sale of the house. The debtor was willing and would have been able to buy the house, her own house, herself at that price, but the decision to sell the house was made so quickly with no notice that nobody had a chance to find out about it and respond. A copy of that order to sell the house is marked Exhibit E.

18. Now, the trustee is ignoring this Notice of Appeal and is going ahead with the sale. The trustee, David A. Bradlow, now states that the sale will be closed on January 19, 2010. I have today just received two telephone calls from Michael D. Cooper, counsel for the trustee, expressing the view that the bankruptcy judge still has jurisdiction over this case in spite of this Notice of Appeal. Michael Cooper told me that he is now filing a motion in the

bankruptcy court and that I should appear in that bankruptcy court on Wednesday, January 20, 2010. I believe that this call was just to threaten and intimidate me and to find out if I exist, because at a hearing on December 22, 2009 his associate, Elizabeth Berke-Dreyfuss, told the bankruptcy judge that I do not exist. Michael D. Cooper still has not sent me the motion he promised to send.

19. The bankruptcy judge has never conducted a fact hearing in this entire case, even though the facts are hotly contested. No witness has ever been sworn in or testified. Since September, the bankruptcy judge has never signed his own orders. All of his orders are electronically, not manually, signed. Since before Christmas, the bankruptcy judge has not even been to the courthouse. He has conducted two hearings by speaker phone from his own home. All of the parties and their attorneys were in the courtroom, but the bankruptcy judge was nowhere to be found. One time he said that he was on vacation, another time he was sick. He just calls his secretary and tells her to electronically sign his orders.

20. For this reason, I am asking this court on an emergency basis to take jurisdiction and to stay all proceedings including this sale. I am also asking this court to override the "Standing Order" under which this case is being referred to the Bankruptcy Appellate Panel or BAP in Pasadena, California. I believe that the BAP is not competent to deal with the legal issues involved in this case, such as violations of the "Truth in Lending" laws and matters of Elder Abuse. The record in the bankruptcy court is voluminous, with 229 documents filed thus far, including several more filed today. I believe that I have the right to have this case heard by the district court under *Northern Pipeline Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982).

WHEREFORE, this court should take plenary or full jurisdiction over this case, all current proceedings should be stayed including the sale of the Bourn Mansion at 2550 Webster Street until a hearing can be held before this court and ultimately this Chapter 11 proceeding should be dismissed.

Samuel H. Sloan
2550 Webster Street
San Francisco CA 94115

Tel. 917-507-7226
917-659-3397
samhsloan@gmail.com

Sworn to before me this 16th
Day of January 2010

Dated January 16, 2010

Copy to:

Michael D. Cooper
Wendel, Rosen, Black and Dean
1111 Broadway, 24th Floor
Oakland CA 94607
mcooper@wendel.com
edreyfuss@wendel.com

David A. Bradlow, Trustee
3947 23rd St
San Francisco, CA 94114-3302

ROBERT A. FRANKLIN (091653)
DORIS A. KAELIN (162069)
LAURENT CHEN (191661)
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San Francisco, California 94109
mrhadler@mrhadler.com

Peter Hadiaris
600 Harrison Street 120
San Francisco CA 94107
peterhadiaris@att.net

Exhibit A

Copy of the order dated October 16, 2008 vacating the default judgment in the amount of \$950,371.87

1 PETER N. HADIARIS, ESQ.
State Bar No. 122590
2 600 Harrison St., Ste 120
San Francisco, CA 94107
3 (415) 593-0077
Attorney for defendant
4 Arden Van Upp

ENDORSED
FILED
San Francisco County Superior Court

OCT 17 2008

GORDON PARK-LI, Clerk
BY: CARMEN LI
Deputy Clerk

8 SAN FRANCISCO COUNTY SUPERIOR COURT
9 UNLIMITED CIVIL JURISDICTION

10 CITY AND COUNTY OF SAN FRANCISCO,)
11)
Plaintiff,)
12 v.)
13 ARDEN VAN UPP, et al)
14)
Defendants.)

No. 300674

ORDER GRANTING
MOTION TO
VACATE VOID JUDGMENT

October 14, 2008
9:30 a.m.
Dept. 220

16 This matter came before the court on July 8, 2008 and
17 October 8, 2008 on the defendant's motion to vacate the default
18 judgment entered August 31, 1999. Peter N. Hadiaris, Esq.
19 appeared on behalf of the defendant Arden Van Upp. Deputy City
20 Attorney Leonor Noguez, Esq., appeared on behalf of plaintiff
21 City and County of San Francisco. The court has considered the
22 moving and opposing papers, and the supplemental briefing filed
23 by the parties.

24 1. The judgment is void on the face of the record because
25 plaintiff failed to file proof of mailing before obtaining the
26 default judgment in this case, as required by CCP §417.10(b) and
27
28

Ord Granting Mot
Vacate Void Judg

1 \$417.30. Strict compliance with the requirements of the statutes
2 regarding service of publication are required for a valid default
3 judgment. Olvera v. Olvera (1991) 232 Cal. App. 3d 32. Courtney
4 v. Abex Corp. (1986) 176 Cal. App. 3d 343, upon which the
5 plaintiff relies, is not applicable because that case did not
6 involve service by publication.

7 2. Also, the judgment is void on the face of the record
8 because the declaration supporting the application to serve by
9 publication was not accompanied by an adequate declaration
10 setting forth that the City had a meritorious claim. The
11 statements in the Lebarle Declaration that the property was
12 maintained as a nuisance and had unsafe parapet walls that
13 violate the Building Code are improper conclusions, Islamic
14 Republic of Iran v. Pavlavi (1984) 160 Cal. App. 3d 620, and the
15 declaration does not establish the City's right to impose the
16 requirements by showing that the requirements for retroactivity
17 either were met or do not apply. Furthermore, the declaration
18 does not set forth specific facts showing that the declarant has
19 personal knowledge of the facts in the declaration. Harris v.
20 Cavasso (1977) 68 Cal. App. 3d 273.

21 3. Finally, the judgment is void on the face of the record
22 because the relief granted exceeds the demand in the complaint in
23 violation of CCP §580(a). The complaint contains no monetary
24 demands, and nowhere alleges how many days of penalties are to be
25 imposed. A defendant reading the complaint would not be
26 reasonably apprised of the potential liability from the factual
27 allegations of the complaint.

28

Ord Granting Mot
Vacate Void Judg

1 4. All of the grounds claimed in the motion appear on the
2 face of the record, and therefore, the two year limitation of CCP
3 §473.5 does not apply. In order for the two year statute to
4 apply by analogy, the judgment must appear to be valid on the
5 record. Rogers v. Silverman (1989) 216 Cal. App. 3d 1114. A
6 void judgment on the face of the record may be vacated at any
7 time, and therefore the motion is timely. See, e.g., Nagel v. P
8 & M Distributors (1969) 273 Cal. App. 2d. 176.

9 5. The defendant's 2002 motion for relief from default
10 raised other factual and legal issues, and is not collateral
11 estoppel. That motion does not preclude the granting of this one
12 on different grounds. Transamerica Title Insurance Co. v.
13 Hendrix (1995) 34 Cal. App. 4th 740..

14 Therefore, it is ordered that the motion is granted. The
15 judgment entered August 31, 1999 is void, and is vacated.

16

17 Dated:

OCT 17 2008

A. JAMES ROBERTSON, II

Judge of the Superior Court

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Ord Granting Mot
Vacate Void Judg

Exhibit B

**Copy of the release of lis pendens dated June 26, 2009 vacating
lien in the amount of \$950,371.87**

RECORDING REQUESTED BY:

DENNIS J. HERRERA
City Attorney
JOANNE HOEPER
Chief Trial Attorney
LEONOR NOGUEZ
Deputy City Attorney

WHEN RECORDED MAIL TO:

NAME Leonor Noguez
Deputy City Attorney
MAILING
ADDRESS 1390 Market Street
Sixth Floor
CITY, STATE San Francisco, CA
ZIP CODE 94102-5408

CONFORMED COPY of document recorded on,

06/26/2009, 20091787245

as No.

at

This document has not been compared with the original

SAN FRANCISCO ASSESSOR'S OFFICE ORDER

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

RELEASE OF LIS PENDENS

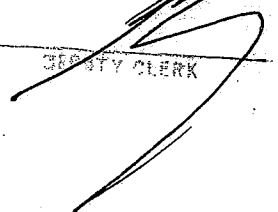
Assessor's Lot 13; Block 580



FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

2009 JUN 26 AM 10:48

GORDON PARK-LI, CLERK

BY: 
DEPUTY CLERK

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 JOANNE HOEPER, State Bar #114961
Chief Trial Deputy
3 LEONOR NOGUEZ, State Bar #152905
Deputy City Attorney
4 Fox Plaza
1390 Market Street, 6th Floor
5 San Francisco, California 94102-5408
Telephone: (415) 554-3854
6 Facsimile: (415) 554-3837
E-Mail: leonor.noguez@sfgov.org

8 Attorneys for Plaintiff
CITY AND COUNTY OF SAN FRANCISCO

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 UNLIMITED JURISDICTION

13 CITY AND COUNTY OF SAN
FRANCISCO, A MUNICIPAL
14 CORPORATION

Case No. 300-674

RELEASE OF LIS PENDENS

15 Plaintiff,

16 vs.

17 ARDEN VAN UPP, et al.,

18 Defendants.

THE ANNEXED INSTRUMENT IS A
CORRECT COPY OF THE ORIGINAL
ON FILE IN MY OFFICE.
ATTEST: CERTIFIED

JUN 26 2009

GORDON PARK-LI, Clerk
SUPERIOR COURT

BY: 
DEPUTY CLERK
SUZANNE LEACY

21 NOTICE IS HEREBY GIVEN that under Code of Civil Procedure, section 405.50, plaintiff the
22 City and County of San Francisco hereby releases its lis pendens in the above-entitled action, filed
23 herein and recorded on February 2, 1999, in the Office of the San Francisco Assessor-Recorder,
24 Instrument No. 99-G508571-00, of the San Francisco County official records.

25 This action concerns real property situated in the City and County of San Francisco, State of
26 California, known as 2550 Webster Street, San Francisco, California 94115, and more fully
27 described as follows:

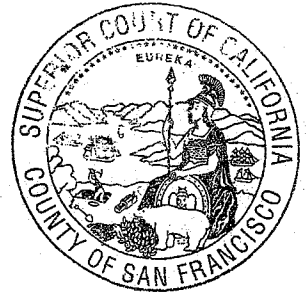
1
2 BEGINNING at a point on the easterly line of Webster Street, distant thereon
3 75 feet, 6 inches southerly from the southeasterly corner of Webster Street and
4 Broadway; running thence southerly along said easterly line of Webster Street
5 59 feet, 2-1/4 inches; thence at a right angle easterly 49 feet, 10-1/2 inches;
6 thence at a right angle northerly 2 feet; thence at a right angle easterly 53, 6-1/2
7 inches; thence at a right angle northerly 57 feet, 2-1/4 inches; and thence at a
8 right angle westerly 103 feet, 6 inches to said easterly line of Webster Street and
9 the point of beginning.

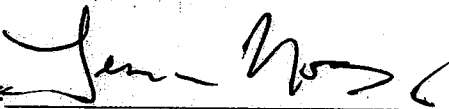
10 BEING a portion of Western Addition Block No. 266.

11 Assessor's Lot 13; Block 580.

12 Dated: June 26, 2009

13 DENNIS J. HERRERA
14 City Attorney
15 JOANNE HOEPER
16 Chief Trial Deputy
17 LEONOR NOGUEZ
18 Deputy City Attorney



19 By: 
20 LEONOR NOGUEZ
21 Attorneys for Plaintiff
22 CITY AND COUNTY OF SAN FRANCISCO
23
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ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of San Francisco

On June 26, 2009 before me, Edwin M. Lee, County Clerk, personally appeared LEONOR NOGUEZ, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

[Handwritten Signature]
Signature
By MARIBEL JALDON
DEPUTY COUNTY CLERK

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL(S) SIGNED FOR ONESELF/THEMSELVES

CORPORATE OFFICER _____ TITLE(S) _____

COMPANY

PARTNER(S) _____ PARTNERSHIP

ATTORNEY-IN-FACT _____ PRINCIPALS

TRUSTEE(S) _____ TRUST

OTHER _____ TITLE(S)

TITLE(S)

City & County of

ENTITIES REPRESENTED

San Francisco

ENTITIES REPRESENTED



Exhibit C

**Offer and commitment from Financial Institution to Refinance
all three properties including the Webster Street Property**

1 MACDONALD & ASSOCIATES
2 IAIN A. MACDONALD (State Bar No. 051073)
221 Sansome Street
3 San Francisco, CA 94104-2323
Telephone: (415) 362-0449
4 Facsimile: (415) 394-5544

5 Attorneys for Debtor,
ARDEN VAN UPP

6
7
8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In Re:
12 ARDEN VAN UPP,
13 Debtor.
14

Case No. 09-31932

Chapter 11

DECLARATION OF GENE KRISTUL IN
SUPPORT OF RENEWAL OF
DEBTOR'S MOTION TO DISMISS

Date: December 22, 2009

Time: 9:30 a.m.

Place: 235 Pine Street
Courtroom No. 23
San Francisco, CA

(Judge Carlson)

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20 Gene Kristal declares:

21 1. I am the President of Saxe Mortgage Company, a well-established mortgage lender
22 located in Daly City, California.

23 2. I have met and conferred extensively with the debtor and have inspected the
24 properties situated at 2550 Webster Street, 2807-09 Steiner Street and 1019 Ashbury Street, and am
25 prepared to make the loans described on the commitment letter attached hereto as Exhibit "A" and
26 incorporated herein by this reference.

27 3. We have opened Escrows with Fidelity Title, Escrow Nos.: 735470 (Steiner Street);
28 735471 (Ashbury Street); 9018855 (Webster Street) and have forwarded the loan documents into

Exhibit D

The First of the many motions to dismiss this bankruptcy proceeding

1 MACDONALD & ASSOCIATES
2 IAIN A. MACDONALD (State Bar No. 051073)
221 Sansome Street
3 San Francisco, CA 94104-2323
Telephone: (415) 362-0449
4 Facsimile: (415) 394-5544

5 Attorneys for Debtor,
ARDEN VAN UPP

6
7
8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 In Re:
12 ARDEN VAN UPP,
13 Debtor.

Case No. 09-31932

Chapter 11

DECLARATION OF ARDEN VAN UPP
IN SUPPORT OF MOTION BY DEBTOR
IN POSSESSION FOR ORDER
DISMISSING CHAPTER 11 CASE

Date: December 4, 2009

Time: 9:30 a.m.

Place: 235 Pine Street
Courtroom No. 23
San Francisco, CA

(Judge Carlson)

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21 Arden Van Upp declares:

22 1. I am the debtor within the Chapter 11 case commenced by filing of a voluntary
23 petition on or about July 10, 2009.

24 2. I have negotiated extensively with Capital Bridge Partners and obtained from them
25 the loan commitment attached hereto as Exhibit A and incorporated herein by this reference. The
26 loan states that it is in the amount of “approximately \$3,100,000 or the sum of final payoff figure,
27 whichever is higher.” (Capital Bridge Partners Letter, October 23, 2009, Exhibit A, ¶2).

28 3. I have conducted an extensive analysis of the claims filed against the estate. Based

1 on a review of the claims, the pleadings filed by various creditors in connection with relief from stay
2 motions, and the schedules, among other things, the schedule of claims attached hereto as Exhibit B
3 is a true and correct analysis of the claims against the estate, excluding expenses of administration,
4 to wit, the fees of the Trustee and his professionals, and excluding a disputed, unliquidated claim of
5 the City and County of San Francisco. Claims, with the foregoing provisions, are in the amount of
6 \$3,503,452.

7 4. I believe that a dismissal will allow me to avoid tax consequences of a sale, and also
8 allow me to preserve my options to realize a better price for one or more of the properties upon
9 recovery of the market.

10 5. I have been advised that IRS §1031 exchange of one or more of the properties may be
11 appropriate for me.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing
13 is true and correct. Executed this 11th day of November, 2009, at San Francisco, California.

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15
16 /s/ Arden Van Upp
Arden Van Upp
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**CAPITAL
BRIDGE
PARTNERS**

750 Battery Street, Floor 7
San Francisco, CA 94111
Phone: (415) 273-4203
Fax: (650) 475-7074
www.capbridgepartners.com

October 23, 2009

Iain A. Macdonald
221 Sansome Street, 3rd Floor
San Francisco, CA. 94104

RE: Loan Commitment Offer

Dear Mr. Macdonald:

We have recently reviewed Arden Van Upp's loan files including current appraisals on the three subject properties. Based upon this review we are able to fund 3 separate loans subject to the following:

1. **Security.** The Loan will be secured in 1st position Deed of Trust with Assignment of Rents by the following properties below.
 - i) 2807 Steiner St, SF, CA
 - ii) 1019 Ashbury St, SF, CA
 - iii) 2550 Webster St, SF, CA
2. **Loan Amount.** Approximately \$3,100,000 or the sum of final pay-off figures whichever is higher, pending verification of the required use of proceeds to be approved by lender. Allocation of the loan funds to each property to be determined by Lender after receipt of payoff demands for each property.
3. **Term.** 24 months, Interest-Only, Balloon Note.
4. **Rate.** Not to exceed 11.00% per annum.
5. **Points.** 6.5 points total; 2.5 points to Baymark Financial, Inc. and 4 points to Lender.
6. **Fees.** All fees including property inspections, Title and Escrow costs to be paid by Borrower.
7. **Due Diligence.** Loan funding will be subject to Lender's approval of the following:
 - a) Title Report. Approval of a preliminary title report covering the Property and ALTA Title Insurance to be obtained by Borrower at Borrower's cost.
 - b) All loans can be subject to 1) bonds and/or special assessments not delinquent and 2) covenants, conditions, restrictions, public utility easements and setback lines of record, provided such covenants, conditions and restrictions of record do not contain a forfeiture clause which would affect our deeds of trust.
 - c) Vesting at close of escrow shall be solely in the name of Arden Van Upp.
 - d) Acceptable Fire/Hazard insurance naming: Capital Bridge Partners, LP, Its Successors and/or Assigns.

Capital Bridge Partners, LP
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EXHIBIT

A

**CAPITAL
BRIDGE
PARTNERS**

750 Battery Street, Floor 7
San Francisco, CA 94111
Phone: (415) 273-4203
Fax: (650) 475-7074
www.capbridgepartners.com

- e) 2550 Webster St., SF, CA must be listed for sale.
8. **Closing.** Loan closing shall be within 15 days after receipt of Bankruptcy Court approval of all documentation including Court approved payoff demands.
9. **Expiration.** The above loan commitment expires in 45 days unless otherwise extended in writing from us.

Sincerely,



Ken G. Wei
Capital Bridge Partners, LP

Cc: Arden Van Upp
BayMark Financial, Inc.

Capital Bridge Partners, LP

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ARDEN VAN UPP
STATEMENT OF ASSETS, LIABILITIES, and NET WORTH
AS OF OCTOBER 15, 2009

ASSETS

| | | |
|------------------------------|---------|-----------|
| CASH: | | 20,000 |
| HOUSEHOLD GOOD & FURNISHINGS | | 20,000 |
| DELINQUENT RENTS | | 10,000 |
| CONTINGENT CLAIMS | | |
| Giuseppe Ressia | 500,000 | |
| Personal Injury Claim | 500,000 | |
| | | 1,000,000 |

REAL ESTATE

| | | | |
|---------------------|------------------------|-----------|-----------|
| 2550 Webster Street | per 09/28/09 appraisal | 3,800,000 | |
| 2807 Steiner Street | per 10/15/09 appraisal | 3,015,000 | |
| 1019 Ashbury Street | per 10/15/09 appraisal | 2,475,000 | |
| | | | 9,290,000 |

TOTAL ASSETS

10,340,000

LIABILITIES & NET WORTH

Claim #

SECURED CLAIMS

2550 Webster Street

| | | | |
|--------------------------------------|---------------|------------------|-----------|
| 4 Quarters Investment Company | | 1,050,000 | |
| Interest | | 60,958 | |
| City & County of San Francisco | 3 | 72,959 | |
| K.A. Young | Judgment Lien | 7,965 | |
| M. L. Ginsberg | Judgment Lien | 2,115 | |
| PC Plumbing | Judgment Lien | 1,350 | |
| Robert Skertich | Judgment Lien | 1,805 | |
| | | | 1,197,153 |

2807 Steiner Street

| | | | |
|--------------------------------------|---|----------------|-----------|
| 4 Quarters Investment Company | | 755,160 | |
| Interest | | 7,552 | |
| M Pocoroba | Deed of Trust | 300,000 | |
| | advances to Steiner Street 1st mortgage | 67,000 | |
| | interest and foreclosure costs | 56,704 | |
| M. Pelletier | Judgment Lien | paid | |
| | | | 1,186,416 |

1019 Ashbury Street

| | | | |
|--------------------------------------|---------------|----------------|---------|
| 4 Quarters Investment Company | | 688,493 | |
| Interest | | 6,885 | |
| City & County of San Francisco | 4 | 41,210 | |
| R. Keane | Judgment Lien | paid | |
| SF PUC | refuse | 8,500 | |
| | | | 745,088 |

EXHIBIT B

ARDEN VAN UPP
 STATEMENT OF ASSETS, LIABILITIES, and NET WORTH
 AS OF OCTOBER 15, 2009

| | | |
|----------------------|--|-----------|
| TOTAL SECURED CLAIMS | | 3,128,656 |
|----------------------|--|-----------|

UNSECURED CLAIMS

Internal Revenue Service

| | | | |
|----------|---------------------------------|---|--------|
| priority | 2006 - 2008 unfiled tax returns | 2 | 20,992 |
| general | 2004 - 2005 unfiled tax returns | 2 | 21,593 |

42,585

Franchise Tax Board

| | | | |
|----------|----------------------------------|---|---------|
| priority | 2006 - 2007 unfiled tax returns | 5 | 211,694 |
| general | 2006 - 2007 penalties & interest | 5 | 52,923 |

264,617

| | | | |
|---------------------|-----------------------|---|--------|
| Peter Hاديaris, Esq | professional services | 1 | 20,094 |
|---------------------|-----------------------|---|--------|

| | | |
|------------------------------|--|---------|
| TOTAL FILED UNSECURED CLAIMS | | 327,296 |
|------------------------------|--|---------|

OTHER LISTED UNSECURED CLAIMS

| | | | |
|---------------|----------------------------|--|-----------|
| J. A. Sparaco | Landlord - tenant dispute | | 47,500 |
| R.M. Hammond | Rental application dispute | | dismissed |

| | | |
|-------------------------------------|--|--------|
| TOTAL OTHER LISTED UNSECURED CLAIMS | | 47,500 |
|-------------------------------------|--|--------|

| | | |
|-------------------|--|-----------|
| TOTAL LIABILITIES | | 3,503,452 |
|-------------------|--|-----------|

| | | |
|-----------|--|-----------|
| NET WORTH | | 6,836,548 |
|-----------|--|-----------|

Note 1: amounts shown are per motion for relief from stay filed by 4 Quarter
 motion also states that Van Upp executed a deed of trust naming Pocoroba as beneficiary
 to all properties

Exhibit E

Order entered one day AFTER this notice of appeal was filed, to sell the mansion for \$2.79 million to a new buyer, a recently or not yet formed LLC called “Pacific Heights LLC”, even though the trustee had first made an Ex Parte Application to sell this property to that legal entity on only the previous day.



1 Michael D. Cooper (Bar No. 42761)
Elizabeth Berke-Dreyfuss (Bar No. 114651)

2 **WENDEL, ROSEN, BLACK & DEAN LLP** **Filed and Filed: January 13, 2010**

3 1111 Broadway, 24th Floor

4 Oakland, California 94607

5 Telephone: (510) 834-6600

6 Fax: (510) 834-1928

7 Email: mcooper@wendel.com

8 Email: edreyfuss@wendel.com

THOMAS E. CARLSON
U.S. Bankruptcy Judge

9 Attorneys for Trustee
10 David A. Bradlow, Trustee

11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 In Re

15 ARDEN VAN UPP,

16 Debtor.

17 Case No. 09-31932 TEC
18 Chapter 11

19 **SECOND AMENDMENT TO ORDER**
20 **APPROVING SALE OF REAL**
21 **PROPERTY, AND SALE FREE AND**
22 **CLEAR OF INTERESTS**
23 **[2550 WEBSTER STREET] AND ORDER**
24 **DENYING RENEWED MOTION TO**
25 **DISMISS, AND ORDER GRANTING**
26 **DEBTOR'S MOTION FOR SALE FREE**
27 **AND CLEAR OF LIENS**

28 **INTEREST HOLDERS AFFECTED:**
SAMMUEL SLOAN
JEFFREY PETRIZZE

LIEN HOLDERS AFFECTED:
4 QUARTERS, INC.
MARGARET POCOROBA AND
RICHARD MURRAY
KIMBERLY YOUNG
MATTHEW PELLETIER
KEVIN WEBB CONSTRUCTION

Date: December 22, 2009 and
January 4, 2010

Time: 9:30 a.m.

Place: 235 Pine Street
Courtroom No. 23
San Francisco, CA

Judge: Hon. Thomas E. Carlson

Wendel, Rosen, Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607

012732.0012\1418662

Second Amendment To Order Approving Sale Of
Real Property, And Sale Free And Clear Of Interests
[2550 Webster Street] Etc.

1 Based upon the Ex Parte Application For Second Amendment to Order Approving Sale
2 Free And Clear of Interests [2550 Webster Street] And Order Denying Renewed Motion to
3 Dismiss filed by David A. Bradlow, Trustee, and the declaration of counsel filed in support
4 thereof, and good cause appearing therefore,

5 IT IS HEREBY ORDERED ADJUDGED AND DECREED:

6 1. The Application is granted as provided herein.
7 2. The Order Approving Sale of Real Property and Sale Free and Clear of Interests
8 [2550 Webster Street] and Order Denying Renewed Motion to Dismiss, entered on December 29,
9 2009 (“Sale Order”), is hereby amended as provided herein,

10 3. Paragraph 3 of the Sale Order is amended as follows:

11 The sale of the Webster Street Property is approved, pursuant to
12 Bankruptcy Code section 363(b), to the successful over bidders,
13 Gregory and Gloria McCandless, or their assignee, the Pacific
14 Heights, LLC (“Approved Purchasers”) for the sum of \$2,790,000
15 on the exact same terms and conditions set forth in the Sale
16 Agreement, as true and correct copy of which is attached hereto as
17 Exhibit A, except as to the names of the purchasers and the sale
18 price.

19 4. Except as expressly amended herein, and except as provided in the Amendment to
20 the Sale Order, all of the terms and conditions of the Sale Order remain in full force and effect.

21 5. The Trustee is authorized to execute any and all documents necessary and
22 appropriate to carry out the terms of the Sale Agreement and the terms of Sale Order, the
23 Amendment to the Sale Order, and this Second Amendment to the Sale Order.
24

25 * * * **END OF ORDER** * * *

26
27
28

COURT SERVICE LIST

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Elizabeth Berke-Dreyfuss
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Investment Co.*

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RSN – Counsel for Margie Pocoroba

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Counsel for Patrick Kenealy

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Debtor’s Counsel

William S. Reeves
Morales Fierro & Reeves
2300 Contra Costa Blvd., Ste. 310
Pleasant Hill, CA 94523

*Counsel for Gregory and
Gloria McCandless*

Wendel, Rosen, Black & Dean LLP
1111 Broadway, 24th Floor
Oakland, CA 94607

Second Amendment To Order Approving Sale Of
Real Property, And Sale Free And Clear Of Interests
[2550 Webster Street] Etc.

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CERTIFICATE OF NOTICE

District/off: 0971-3
Case: 09-31932

User: mwalker
Form ID: pdfec

Page 1 of 1
Total Noticed: 2

Date Rcvd: Jan 13, 2010

The following entities were noticed by first class mail on Jan 15, 2010.
aty +William C. Reeves, Law Offices of Morales and Gary, 2300 Contra Costa Blvd. #310,
Pleasant Hill, CA 94523-3961
+Caryl B. Welborn, 220 Montgomery Street, #417, San Francisco, CA 94104-3400

The following entities were noticed by electronic transmission.

NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE. TOTAL: 0

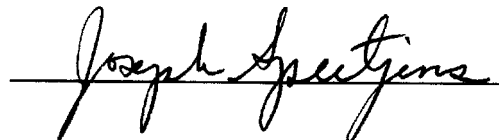
Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 15, 2010

Signature:



Affirmation of Service

Samuel H. Sloan does hereby swear and affirm that on January 16, 2010 he served the within "MOTION TO THIS COURT TO TAKE PLENARY OR FULL JURISDICTION OVER THIS CASE" by mailing by electronic and postal mail a true copy of the same to the following persons:

Michael D. Cooper
Wendel, Rosen, Black and Dean
1111 Broadway, 24th Floor
Oakland CA 94607
mcooper@wendel.com
edreyfuss@wendel.com

David A. Bradlow, Trustee
3947 23rd St
San Francisco, CA 94114-3302

ROBERT A. FRANKLIN (091653)
DORIS A. KAELIN (162069)
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peterhadiaris@att.net

/s/ _____
Samuel H. Sloan
2550 Webster Street
San Francisco CA 94115
Tel. 917-507-7226
samhsloan@gmail.com

Sworn to before me this 16th
Day of January 2010

NOTARY PUBLIC