

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

<i>In re:</i>	:	
	:	Case No.
,	:	Chapter 13
	:	Judge Humphrey
<i>Debtor.</i>	:	
	:	

**MOTION FOR AUTHORITY TO SELL REAL PROPERTY AND
TO RETAIN A PORTION OF THE SALE PROCEEDS**

_____ (*name/s of debtor/s*) (the “Debtor,” whether individually or collectively) moves the court for an order authorizing the Debtor to sell the real property, described below, pursuant to the terms and conditions described herein and to retain a portion of the sale proceeds by the Debtor.

(1) Debtor wishes to sell the real property (the “Property”) located at: _____

☐ A legal description of the Property is attached as Exhibit ____.

☐ Property is Debtor’s residence.

☐ Property is not Debtor’s residence.

(2) Debtor’s Chapter 13 Plan (the “Plan”) was confirmed on: _____.

☐ Sale was provided for by Plan or approved modification (Doc. [____]).

☐ Motion to Modify Plan has been filed concurrently with this Motion.

Sale Terms and Conditions

(1) The sale price of the Property is \$ _____.

(2) The value of the Property as set forth in the appraisal filed with the Court at Doc. ____, is
\$ _____.

(3) The name of the individual(s) intending to purchase the Property is: _____
_____ (the "Buyer"). (You must check one of the following boxes.)

☐ The Buyer has no past or present relationship to the Debtor; OR

☐ The Buyer is related to or has a connection with the Debtor that is required to be disclosed pursuant to Local Bankruptcy Rule 6004-1(d). If this box is checked, provide explanation of the Buyer's relationship to the Debtor: _____

_____.

(4) The Property was marketed for sale by (provide name and address of realtor):

_____.

(5) Realtor's commission from the sale of the Property: \$ _____.

(6) The amount necessary to complete the real estate transaction is approximately \$ _____ (the "Closing Costs"). Estimated closing statement is attached as Exhibit ____.

(7) The following are all of the encumbrances of record against the Property:

Mortgage/Lien Holder	Approx. Payoff Amount
Total:	

(8) Debtor's attorney will request additional attorney fees in the amount of \$ _____ for worked performed in connection with the sale of the Debtor's Property. (*Attorney for Debtor shall file a separate application for attorney fees.*)

(9) After the payment of the Realtor's commission, Closing Costs, all of the foregoing encumbrances, and additional attorney fees there will remain the approximate amount of \$ _____.

The closing agent shall coordinate with the Chapter 13 Trustee or the Trustee's office staff as well as the Debtor's attorney to make arrangements for the closing and obtain the Trustee's approval to proceed with the closing. If either the Trustee or the Debtor's attorney, or the Trustee's office staff, do not attend the closing, the closing agent shall cause to be delivered to the Chapter 13 Trustee within three working days after the closing the net proceeds of the closing and a copy of the signed closing statement. Disbursement of any of the foregoing payments shall be considered as made by the Trustee for the purposes of the Trustee collecting the percentage of the fee fixed pursuant to 11 U.S.C. § 1326(b)(2) and this order.

The named closing agent shall obtain the Trustee's approval prior to proceeding with any closing and the Debtor shall not proceed with the closing until Trustee approval has been obtained.

Debtor's Motion to Retain

(1) The Debtor proposes to pay \$_____ of the sale proceeds to the Chapter 13 Trustee and to retain \$_____ of the funds for maintenance and support pursuant to 11 U.S.C. § 1325.

(2) The Plan currently provides for payment of ____% to the unsecured creditors.

(3) The Debtor proposes to use the Sale Proceeds for the following necessary and unexpected expenditures outside of the Debtor's budget:

Expenditures	Dollar Amount
Total:	

(4) Additional explanation regarding the use of the Sale Proceeds: _____

_____.

(5) Supporting Documentation (You must check one of the following boxes.):

☐ Supporting documentation, including any estimates prepared by proposed service providers (e.g., building contractors, mechanics, medical service providers, etc.) and any cost comparisons of goods the Debtor intends to purchase (e.g. new appliances, vehicles, etc.), is attached. Exhibit [__];

OR

☐ Supporting documentation is voluminous and will be provided to the Chapter 13 Trustee in lieu of filing the documents in this case. A summary of the supporting documentation is attached. Exhibit [].

(6) Affidavit Required for all motions seeking to retain a portion of the proceeds for use by the Debtor is attached or filed separately at Doc. ____.

Wherefore, the Debtor requests that the Court grant the Motion for Authority to Sell Real Property and to Retain a Portion of the Sale Proceeds by Debtor.

Respectfully submitted,

/s/

NAME / STATE BAR NUMBER, IF ANY
LAW FIRM NAME
MAILING ADDRESS
Ph: TELEPHONE NUMBER
Fx: FAX NUMBER

NOTICE OF MOTION

(Name(s)) has filed a Motion for Authority to Sell Real Property and to Retain a Portion of the Sale Proceeds by Debtor.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the Motion**, you must file with the court a response explaining your position by mailing your response by first class mail to (address of bankruptcy court clerk's office) OR your attorney must file a response using the court's ECF System.

The court must receive your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF system or by 2) regular U.S. Mail to:

(Debtor(s) name and address)

(Debtor(s) attorney name and address)

John G. Jansing, Chapter 13 Trustee, 409 E. Monument Ave., Suite 410, Dayton, Ohio 45402
Office of the U.S. Trustee, 170 North High St., Suite 200, Columbus, Oh 43215

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief without further hearing or notice.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Authority to Sell Real Property and to Retain a Portion of the Sale Proceeds by Debtor was served **electronically** on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the Court and

by **first class mail** on (month) (day), (year) addressed to:

(Name)
(Mailing address)

[For parties served other than by first class mail, add the following language:]

by [**certified mail or any other method of service**] on (month), (day), (year) addressed to:

(Name)
(Mailing address or, if service is made on an individual personally, state
“(Personally Served)” or “(Hand Delivered)”)

[For parties served using a Third-Party Notice Provider approved by the Administrative Office of the United States Courts pursuant to Federal Rules of Bankruptcy Procedure 9001(9) and 2002(g)(4), add the following language:]

And the creditors and parties in interest shown on the [attached or separately filed] Declaration of Mailing and Certificate of Service on (month), (day), (year).

/s/
Debtor(s) Counsel

AFFIDAVIT

The Debtor(s), _____, being first duly sworn and cautioned
state(s) as follows:

1. The requested retained funds will be used for the purpose stated in the Motion to Retain.
2. These expenses were not budgeted for within Schedule J.
3. I am requesting to retain the Sale Proceeds to pay for these expenses.

/s/
Debtor

/s/

Joint Debtor

State of _____)
) SS
County of _____)

Before me, a Notary Public in and for said county, personally appeared the above, _____, who acknowledged that he/she did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed by official seal at _____, Ohio this ____ day of _____, ____.

Notary Public