

Return to:

MTC 36025HF

Vol. 195 Page 27187

BUCHALTER, NEMER, FIELDS & YOUNGER  
 A Professional Corporation  
 ROBERT E. IZMIRIAN, State Bar No. 53805  
 DENNIS D. MILLER, State Bar No. 138669  
 333 Market Street, 29th Floor  
 San Francisco, California 94105-2130  
 Telephone: (415) 227-0900  
 Facsimile: (415) 227-0770

Attorneys for Edward F. Towers  
 Chapter 7 Trustee

FILED

AUG 30 1995

KEENAN G. CASADY, CLERK  
 UNITED STATES BANKRUPTCY COURT  
 SAN FRANCISCO, CA

UNITED STATES BANKRUPTCY COURT  
 NORTHERN DISTRICT OF CALIFORNIA

In re ) Chapter 7  
 ) Case No. 93-3-1822TC  
 JOHN VIDA, )  
 )  
 Debtor. )

ORDER AUTHORIZING SALE OF REAL PROPERTY  
 OF THE ESTATE PURSUANT TO 11 U.S.C. §363(b)

On the basis of the application of Edward F. Towers,  
 Chapter 7 Trustee ("Trustee") seeking authority to sell real  
 property of the estate located at 503-07 South 2nd Avenue,  
 Chiloquin, Oregon and legally described in Exhibit "1" attached  
 hereto (the "Subject Property"), due and proper notice having  
 been given, and no adverse interests having been shown, the Court  
 being satisfied that the sale is in the best interests of this  
 estate, and for good cause shown,

IT IS HEREBY ORDERED as follows:

1. The Application For Order Authorizing Trustee To  
 Sell Real Property Of The Estate Pursuant To 11 U.S.C. §363(b) is  
 approved.

-1-

ORDER AUTHORIZING SALE OF REAL PROPERTY  
 OF THE ESTATE PURSUANT TO 11 U.S.C. §363(b)

FILED  
 is a true and correct  
 the original on file in  
 CO. 8/30/95  
 KEENAN G. CASADY  
 Clerk of Court

107\0024\089.DDM  
 8/30/95 (3) msr

3. The Trustee is authorized to sell the Subject Property to the Klamath Tribes Housing Authority on the terms and conditions set forth in the Agreement.

4. The general and special taxes, the lien of Klamath First Federal Savings and Loan, and closing costs shall be paid in full from the gross proceeds of sale in escrow.

5. The Trustee is authorized to pay Linda Long and Crater Lake Realty six percent (6%) from the gross proceeds of sale in escrow.

6. The Trustee and the Klamath Tribes Housing Authority are authorized to take any and all acts and execute any and all documents necessary and/or proper to effectuate the terms of this Order.

Dated: 8-30-95

UNITED STATES BANKRUPTCY JUDGE  
JD

27189

EXHIBIT 1

Lots 1 and 2 in Block 8, SOUTH CHILOQUIN ADDITION to the City of Chiloquin, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

T5707\0024\089.DDM  
8/18/95 (2) dd

THIS IS A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND IT, YOU SHOULD CONSULT A LAWYER BEFORE SIGNING.

1. NOTICE: Some words and phrases in this Contract appear in bold print. These words and phrases are defined in Part 6 B, Definitions and Construction. Part 6 is included in Buyer's offer and Seller's acceptance.

## PART 1 - BUYER'S OFFER

THE BUYERS ACKNOWLEDGE THEY HAVE RECEIVED THE AGENCY DISCLOSURE FORMS REQUIRED BY LAW

## A. Parties, Property, Price and Term:

(1) Parties THE KLAMATH TRIBES

EDWARD TOWERS - TRUSTEE

Buyer HOUSING AUTHORITY

Seller

(2) The Property

Seller owns the property described below. Buyer agrees to buy the property described below and Seller agrees to sell it to Buyer.

## (a) Real Property Description

The real property is legally described as LOTS 1&2, BLOCK 8 SOUTH CHILOQUIN

The real property is located in or near the City of CHILOQUIN County of KLAMATH State of ORE.

The real property is commonly known as (street address) 503-507 SOUTH 2ND AVENUE

(Any party, licensee or escrow officer is authorized to attach the correct legal description before settlement if unavailable at time of signing).

## (b) Additional Property

## 1. Fixtures

The following will be left upon the premises as part of the property purchased and are included in the purchase price: all existing light fixtures and bulbs, fluorescent lamps, window blinds, window and door screens, storm windows and door screens, storm windows and doors, attached floor coverings, attached television antennas, curtain, towel and drapery rods, shrubs and trees, irrigation, plumbing, cooling and heating equipment including oil tanks, and all fixtures

except: TENANTS PERSONAL PROPERTY

## 2. Personal Property

The following personal property is also included as part of the property: (4) STOVES (3) REFRIGERATORS

## 3) Purchase Price of the Property

Buyer agrees to pay Seller in U. S. Dollars the purchase price of:

SIXTY-FIVE THOUSAND

\$ 65,000

## (4) Terms

Buyer agrees to pay Seller the purchase price as follows:

(a) Earnest Money ☐ cash ☐ check ☒ note ( )

\$ 1,000

(b) Additional earnest money ☐ on Seller's Acceptance ☐ on (date )

\$ 64,000

(c) Upon acceptance of title and delivery of ☒ deed or ☐ contract

(d) The balance of:

THIS IS AN ALL CASH SALE

\$ -0-

shall be paid as follows:

Will Buyer assume Seller's debt? ☐ Yes ☒ No If yes, will Buyer pay (in addition to the purchase price) (a) any required assumption costs? ☐ Yes ☐ No; (b) any sums in the reserve account of any indebtedness assumed as of the proration date? ☐ Yes ☐ No.

## (5) Non-Assignment by Buyer

If Seller is extending credit to Buyer after settlement of this sale, Buyer may not assign his rights in this Contract or any security device to be delivered at closing without prior written consent of Seller.

## B. Buyer's Contingencies

## (1) Financing

This sale ☐ is ☒ is not subject to Buyer obtaining a loan, and is not subject to settlement of the sale or purchase of any property in which Buyer holds an interest unless otherwise stated in this Contract. If this sale is subject to Buyer obtaining a loan, Buyer agrees to submit Buyer's written loan application not later than \_\_\_\_\_, 19\_\_\_\_. Buyer agrees to use Buyer's best efforts to obtain a loan. If this sale is to be financed, any discount required by lender will be paid as follows: by Seller \$ \_\_\_\_\_; by Buyer \$ \_\_\_\_\_

## (2) Other Contingencies:

PROPERTY IS SOLD SUBJECT TO ATTACHED ADDENDUM MARKED EXHIBIT A. THIS OFFER IS SUBJECT TO APPROVAL BY THE KLAMATH TRIBES HOUSING AUTHORITY BOARD

FOR ADDITIONAL TERMS AND BUYER'S CONTINGENCIES SEE ATTACHED ADDENDUM \* A

## C. Closing and Settlement

## (1) Deed

The real property will be conveyed by Statutory Warranty Deed, unless otherwise agreed. The property will be conveyed free and clear of all liens and encumbrances except: zoning ordinances, covenants, conditions and restrictions, building and use restrictions, easements of records, and THOSE APPARENT UPON THE LAND AND COMMON TO BEN. ESTATE IN THE AREA

THE MANNER IN WHICH THE PARTIES' NAMES ARE USED IN A DEED OR CONTRACT CAN HAVE LEGAL AND TAX CONSEQUENCES. IF BUYER DOES NOT UNDERSTAND THE CONSEQUENCES, BUYER IS ADVISED TO CONSULT A LAWYER AND/OR AN ACCOUNTANT BEFORE SIGNING.

Buyer directs that the deed or contract be prepared in the name of

HOUSING AUTHORITY

THE KLAMATH TRIBES

## (2) Escrow Agent and Escrow Fees

This sale will be closed in escrow by MOUNTAIN TITLE COMPANY

as escrow agent.

I HAVE REVIEWED ALL TERMS ON THIS PAGE AND HAVE RECEIVED A TRUE, LEGIBLE COPY OF THIS PAGE AND THE ENTIRE CONTRACT.

69. Escrow fees shall be paid by Seller if Buyer obtains Federal V.A. financing; otherwise, escrow fees shall be paid equally by Seller and Buyer.
70. (3) **Settlement Date**
71. Settlement of this sale shall be on SEPT. 1, 1995 or as soon thereafter as closing documents are prepared.
72. (4) **Prorations**
73. Seller and Buyer agree to prorate the following items: taxes for the relevant tax year, rents, interest and other items. Unless existing hazard
74. insurance can be assumed, Buyer will purchase a new hazard insurance policy. The date of proration shall be CLOSING, 1995.
75. Buyer agrees to pay Seller for any fuel in storage tanks at the date of possession.
76. (5) **Possession Date**
77. Possession of the property is to be delivered to Buyer on SEPT. 1, 1995, or as soon thereafter as existing laws and
78. regulations will permit removal of tenants, if any.
79. (6) **Preliminary Title Report**
80. Seller will choose a title insurance company. Seller will furnish a preliminary title report to Buyer before settlement. The preliminary title report
81. will show the condition of the title of the real property.
82. (7) **Title Insurance Policy**
83. Seller will pay for and furnish to Buyer a standard owner's title insurance policy at closing. The title insurance policy will be in the amount of the
84. purchase price of the real property. The title insurance policy will show good and marketable title to the real property. Buyer will pay all
85. additional premiums if an extended coverage title policy is ordered for Buyer's benefit.
86. (8) **Payment of Money Owed Against the Real Property**
87. Money owed against the real property by Seller may be paid out of the purchase money at settlement; if Seller so chooses.
88. (9) **No Reliance on Non-Written Representations of Licensees**
89. The parties acknowledge that no party has received or relied on any representation made by any licensee which is not written in this Contract.
90. D. **Seller's Representations**
91. (1) **No Notice of Liens**
92. Seller has no notice of any liens to be assessed against the real property.
93. (2) **Water**
94. If the property's water is supplied by an on-site water well, Seller represents that: (a) The water well has provided enough water for household
95. use year-round; (b) To the best of Seller's knowledge, the water is fit for human consumption; (c) To the best of Seller's knowledge the continued
96. use of the well water is allowed under all relevant laws, ordinances and regulations. If Seller accepts Buyer's offer, Seller will have, at Seller's
97. expense, any on-site water well that supplies water for domestic use tested for nitrates and total coliform bacteria as required by ORS 448.271.
98. E. **Seller's/Licensee's Disclaimers**
99. (1) **Square Footage/Acreage Disclaimer**
100. Neither Seller nor licensees represent the square footage of any structure or the acreage of any land being purchased. If square footage or
101. acreage is a material consideration, licensees advise that Buyer should measure the structures and land before signing this Contract.
102. (2) **Fire Protection District/Approved Uses/Limits on Lawsuits Against Farming or Forest Practices** (This notice is required by law)
103. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.
104. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE
105. CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED
106. IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE
107. PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND
108. EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.
109. F. **Additional Terms**
110. All of the additional terms contained on pages 3, 4 and 5 of this Contract are incorporated into this Contract. By initialing here, each Buyer signifies
111. that s/he has read, understands and agrees to those terms, including the agreement to arbitrate disputes and the waiver of Buyer's right (if any) to a
112. jury trial of any claim, and also acknowledges that any right to appeal any award of an arbitrator is restricted.
113. \*Date 7/12/95 \*Buyer's Initial RLM Date \_\_\_\_\_ Buyer's Initial \_\_\_\_\_
114. G. **FINAL ACKNOWLEDGMENT OF AGENCY RELATIONSHIPS**
115. TO BE COMPLETED AT TIME OF CONTRACT & RECEIPT FOR EARNEST MONEY: The following agency relationship(s) in this transaction is (are)
116. hereby consented to and acknowledged for the property:
117. (a) GARY IRWIN - JUDY SAY (selling real estate licensee) of CATER LAKE REALTY (name of
118. real estate organization) is the agent of (check one): ☐ the buyer exclusively as an agent of the buyer. ☐ the seller exclusively as an agent of the
119. seller. ☒ both the seller and the buyer as set out in the in-company agreement.
120. (b) GARY IRWIN - JUDY SAY (listing agent if not the same as selling agent) of CATER LAKE REALTY
121. (name of real estate organization) is the agent of (check One): ☐ the seller exclusively as seller's agent. ☒ both the seller and the buyer as set out in
122. the in-company agreement.
123. H. **Buyer's Offer**

124. Buyer offers to purchase the property described on Page 1 of this Contract at the price and on the terms, contingencies and representations

125. above. Buyer gives the licensee until 12:00 midnight on 7-24, 1994 to obtain Seller's acceptance of this offer. Each Buyer

126. acknowledges that at the time of signing this offer to purchase, each Buyer has a legal duty to acknowledge the existing agency relationship, if any.

128. BUYER ACKNOWLEDGES THAT BUYER HAS READ AND FULLY UNDERSTANDS THIS CONTRACT (including Part 6) AND HAS

129. THE KLANATHI RECEIVED A TRUE, LEGIBLE COPY OF THIS CONTRACT.

130. BUYER: TRIBES HOUSING AUTHORITY SSAN/TIN # \_\_\_\_\_

131. Address: 705 MAIN ST - SUITE 613 KLANATH FALLS, OR 97601

132. Home Phone # \_\_\_\_\_ Work Phone # 503 884-5491 Date \_\_\_\_\_ 19 \_\_\_\_ Time \_\_\_\_ M

133. BUYER: \_\_\_\_\_ SSAN/TIN # \_\_\_\_\_

134. Address: \_\_\_\_\_

135. Home Phone # \_\_\_\_\_ Work Phone # \_\_\_\_\_ Date \_\_\_\_\_ 19 \_\_\_\_ Time \_\_\_\_ M

136. **PART 2 - RECEIPT FOR EARNEST MONEY**

137. RECEIPT FOR EARNEST MONEY: The undersigned licensee acknowledges receipt of the Earnest Money described on Page 1 of this Contract in the

138. sum of \$ 4,000 (NOTE)

139. SELLING BROKER: CATER LAKE REALTY

140. Address: P.O. Box 489 - Philoquin, OR.

141. Phone: 503 783 2759 Licensee G. IRWIN - J. SAY (signature)

LISTING BROKER: CATER LAKE REALTY

Address: P.O. Box 489 - Philoquin, OR.

Phone: 503 783 2759 Licensee G. IRWIN - J. SAY

142. I HAVE REVIEWED ALL TERMS ON THIS PAGE AND HAVE RECEIVED A TRUE, LEGIBLE COPY OF THIS PAGE AND THE ENTIRE CONTRACT.

init / Date  
RLM 7/12/95

init / Date

EXHIBIT 2 PAGE 2 OF 2

143.

PART 3 - SELLER'S ACCEPTANCE, REJECTION OR COUNTER OFFER

EX OFFER

# 285262

27192

144.

THE SELLERS ACKNOWLEDGE THEY HAVE RECEIVED THE AGENCY DISCLOSURE FORMS REQUIRED BY LAW

## 145. A. Closing Instructions and Fee Agreement

## 146. (1) Title Insurance

147. Seller authorizes licensee to order a preliminary title report and title insurance at Seller's expense from MOUNTAIN TREE CO.

## 148. (2) Fee Agreement

149. (a) Seller agrees to pay Listing Broker a commission for services rendered in this sale as follows:

150. ☒ At settlement, the sum of \$ 3,900 in collected funds (U.S. Dollars);151. ☐ See separate closing instructions and fee agreement.

152. (b) If this is a co-op sale, the commission will be divided as follows: \_\_\_\_\_ % to Listing Broker \_\_\_\_\_ % to Selling Broker.

153. (c) If Buyer fails to complete the sale under the terms of this Contract, all earnest money will be distributed as follows:

154. (1) to the escrow agent for cost of title insurance and any escrow cancellation charges; and (2) the balance as follows:

155. 50 % to Seller, 50 % to Listing Broker. Seller's initials LS Seller's initials \_\_\_\_\_

## 156. (3) Deposit of Earnest Money

157. Seller authorizes and directs the licensee to handle the earnest money as follows: ☒ place in Selling Broker's client trust account; ☐ upon acceptance of offer and collection of funds, transfer to the Listing Broker's client trust account; ☐ deposit with escrow agent.

## 159. B. Additional Terms

160. All of the additional terms contained on pages 3, 4 and 5 of this Contract are incorporated into this Contract. By initialing here, each Seller signifies that s/he has read, understands and agrees to those terms, including the agreement to arbitrate disputes and the waiver of Seller's right (if any) to a jury trial of any claim, and also acknowledge that any right to appeal any award of an arbitrator is restricted. This offer was presented to Seller on:

163. Date \_\_\_\_\_ Seller's Initial \_\_\_\_\_ Date \_\_\_\_\_ Seller's Initial \_\_\_\_\_

## 164. C. Acceptance of Offer

165. Seller accepts Buyer's offer for the price and on the terms and contingencies set forth in Buyer's offer. Each Seller acknowledges that at the time of signing this offer to purchase, each Seller has a legal duty to acknowledge the existing agency relationship, if any (by use of a separate form).

167. SELLER ACKNOWLEDGES THAT SELLER HAS READ AND FULLY UNDERSTANDS THIS CONTRACT (including Part 6) AND HAS RECEIVED A TRUE, LEGIBLE COPY OF THIS CONTRACT, BEARING BUYER'S SIGNATURE AND THAT OF SELLER SHOWING SELLER'S ACCEPTANCE. Seller's signature indicates that s/he has read the representations of Part 1, D and E of the Contract and that they are accurate representations about the property. By her/his signature, Seller authorizes and directs licensee and escrow agents to perform the acts set out in lines 146 through 158 and lines 271 and 272 of this Contract.

171. SELLER: Edward J. Jansen SSAN/TIN # 94-1104348172. Address: 1255 Park St #404, San Francisco, CA 94109174. Home Phone # \_\_\_\_\_ Work Phone # 415 775-5157 Date \_\_\_\_\_ 19\_\_ Time \_\_\_\_\_ M

175. SELLER: \_\_\_\_\_ SSAN/TIN # \_\_\_\_\_

176. Address: \_\_\_\_\_

177. Home Phone # \_\_\_\_\_ Work Phone # \_\_\_\_\_ Date \_\_\_\_\_ 19\_\_ Time \_\_\_\_\_ M

## 178. D. Counter Offer

179. Seller rejects Buyer's offer and makes the attached Seller's Counter Offer.

180. SELLER ACKNOWLEDGES THAT SELLER HAS READ AND FULLY UNDERSTANDS THIS CONTRACT AND HAS RECEIVED A TRUE, LEGIBLE COPY OF THIS CONTRACT, BEARING BUYER'S SIGNATURE AND THAT OF SELLER SHOWING SELLER'S RESPONSE.

182. Seller's signature indicates that s/he has read the representations of Part 1, D and E of the Contract, and that they are accurate representations about the property.

184. SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

185. SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

## 186. E. Rejection

187. Seller rejects Buyer's offer. Buyer's earnest money and any additional earnest money will be refunded subject to all applicable "collected funds," statutes, rules and/or regulations.

189. SELLER ACKNOWLEDGES THAT SELLER HAS READ AND FULLY UNDERSTANDS THIS CONTRACT AND HAS RECEIVED A TRUE, LEGIBLE COPY OF THIS CONTRACT, BEARING BUYER'S SIGNATURE AND THAT OF SELLER SHOWING SELLER'S RESPONSE.

191. SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

192. SELLER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

## 193. PART 4 - BUYER'S ACKNOWLEDGEMENT

194. BUYER ACKNOWLEDGES THAT BUYER HAS RECEIVED A TRUE, LEGIBLE COPY OF THE CONTRACT (CONTAINING PARTS 1, 2, 3, 4, 5 AND 6) BEARING BUYER'S SIGNATURE AND THAT OF SELLER SHOWING SELLER'S RESPONSE.

196. By her/his signature, Buyer authorizes and directs licensee and escrow agents to perform the acts set forth in lines 146 through 158 and lines 271 and 272 of this Contract, including but not limited to, deposit of earnest money.

197. BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

199. BUYER: \_\_\_\_\_ DATE: \_\_\_\_\_ 19\_\_ TIME: \_\_\_\_\_ M.

## 200. PART 5 - BROKER'S REVIEW

201. Selling Broker's initials JS DATE 7-18-95 TIME 4:30 P.M. Listing Broker's initials JS DATE 7-18-95 TIME 4:30 P.M.

## 202. PART 6 - JOINT TERMS, REPRESENTATIONS AND REMEDIES

203. A. TIME IS THE ESSENCE OF PAYMENT AND PERFORMANCE OF THIS CONTRACT.

## 204. B. Definitions and Construction

## 205. (1) Rules of Construction

206. The following rules will be used in interpreting this Contract:

- 207. • Headings are for the convenience of the parties only, and are not a part of the Contract.
- 208. • Whenever necessary to make this Contract more readable, use of the singular form of a word also means the plural, and use of the masculine form of a word also means the feminine and vice versa. For example "he" may also mean "she" or "they/them", if necessary.
- 209. • This Contract shall be interpreted as if it had been prepared by Buyer and Seller rather than by one of them.
- 210. • All exhibits referred to in this Contract are attached and made a part of it by this reference.
- 211. • If the date on which Buyer or Seller is required by this Contract to take any action falls on Saturday, Sunday or a legal holiday recognized by Oregon Revised Statutes (ORS), the action will be taken on the very next day which is not a Saturday, Sunday or a legal holiday recognized by ORS.

214. I HAVE REVIEWED ALL TERMS ON THIS PAGE AND HAVE RECEIVED A TRUE, LEGIBLE COPY OF THIS PAGE AND THE ENTIRE CONTRACT.

EXHIBIT 2 PAGE 3 OF 4PRINTED DATE 7-18-95

DATE \_\_\_\_\_

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Buchalter, Nemer, Fields &amp; Younger

ADDENDUM A

## ADDENDUM TO LISTING AGREEMENT

DATED: 5/3/95

ADDRESS: 507 So. 2nd Avenue  
Chiloquin, OR 97624

Offers submitted on this property must include the following contingencies:

1. Property is sold on "as is" and, "where is", condition with no representations or warranties.
2. Sale of subject to "overbid process".
3. Sale is subject to bankruptcy "court approval".
4. All disputes, controversies or quarrels shall be resolved in the United States Bankruptcy Court for the Northern District of California.

X. F. Kik / M. D. C.  
Buyer

X 7/27/95  
Date

Edward B. Tamm, Trustee  
Seller

7.21.95  
Date

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company the 9th day  
of October A.D., 19 95 at 11:57 o'clock A M., and duly recorded in Vol. M95  
of Deeds on Page 27187.

FEE \$40.00

Bernetha G. Letsch, County Clerk  
By Annette Mueller