

1 DAVID R. ZARO (BAR NO. 124334)  
2 NORMAN M. ASPIS (BAR NO. 313466)  
3 ALLEN MATKINS LECK GAMBLE  
4 MALLORY & NATSIS LLP  
5 865 South Figueroa Street, Suite 2800  
6 Los Angeles, California 90017-2543  
7 Phone: (213) 622-5555  
8 Fax: (213) 620-8816  
9 E-Mail: dzaro@allenmatkins.com  
10 naspis@allenmatkins.com

11 EDWARD G. FATES (BAR NO. 227809)  
12 ALLEN MATKINS LECK GAMBLE  
13 MALLORY & NATSIS LLP  
14 One America Plaza  
15 600 West Broadway, 27th Floor  
16 San Diego, California 92101-0903  
17 Phone: (619) 233-1155  
18 Fax: (619) 233-1158  
19 E-Mail: tfates@allenmatkins.com

20 Attorneys for Receiver  
21 KRISTA FREITAG

22 UNITED STATES DISTRICT COURT  
23 SOUTHERN DISTRICT OF CALIFORNIA

24 SECURITIES AND EXCHANGE  
25 COMMISSION,

26 Plaintiff,

27 v.

28 GINA CHAMPION-CAIN and ANI  
DEVELOPMENT, LLC,

Defendants,

AMERICAN NATIONAL  
INVESTMENTS, INC.,

Relief Defendant.

Case No. 3:19-cv-01628-LAB-AHG

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
RECEIVER'S MOTION FOR  
APPROVAL OF SALE OF PARKING  
LOT PROPERTY**

Date: April 27, 2020

Time: 2:00 p.m.

Courtroom: 5B

Mag. Judge: Hon. Allison H. Goddard

**TABLE OF CONTENTS**

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

**Page**

I. BACKGROUND FACTS .....5  
II. PROPOSED SALE.....7  
III. LEGAL STANDARD .....8  
    A. The Court's Authority to Approve Sale .....9  
    B. 28 U.S.C. § 2001 .....10  
IV. DISCUSSION .....11  
V. CONCLUSION .....13

**TABLE OF AUTHORITIES**

**Page(s)**

**Cases**

1

2

3

4 *Beet Growers Sugar Co. v. Columbia Trust Co.*

5 3 F.2d 755 (9th Cir. 1925)..... 9

6 *Blakely Airport Joint Venture II v. Federal Sav. and Loan Ins. Corp.*

7 678 F. Supp. 154 (N.D. Tex. 1988)..... 10

8 *Breeding Motor Freight Lines, Inc. v. Reconstruction Finance Corp.*

9 172 F.2d 416 (10th Cir. 1949)..... 11

10 *CFTC. v. Topworth Int'l, Ltd.*

11 205 F.3d 1107 (9th Cir. 1999)..... 9

12 *First Nat'l Bank v. Shedd*

13 121 U.S. 74 (1887) ..... 9

14 *Gockstetter v. Williams*

15 9 F.2d 354 (9th Cir. 1925)..... 10

16 *Miners' Bank of Wilkes-Barre v. Acker*

17 66 F.2d 850 (2d Cir. 1933)..... 9

18 *Regions Bank v. Egyptian Concrete Co.*

19 2009 U.S. Dist. LEXIS 111381, at \*8 (E.D. Mo. 2009) ..... 11

20 *SEC v. American Capital Invest., Inc.*

21 98 F.3d 1133 (9th Cir. 1996)..... 9

22 *SEC v. Capital Consultants, LLC*

23 397 F.3d 733 (9th Cir. 2005)..... 8, 9

24 *SEC v. Capital Cove Bancorp LLC*

25 2015 U.S. Dist. LEXIS 174856, at \*13 (C.D. Cal. 2015)..... 10

26 *SEC v. Elliot*

27 953 F.2d 1560 (11th Cir. 1992)..... 8, 9

28 *SEC v. Goldfarb*

2013 U.S. Dist. LEXIS 118942, at \*5 (N.D. Cal. 2013)..... 10

*SEC v. Hardy*

803 F.2d 1034 (9th Cir 1986)..... 8

*SEC v. Kirkland*

2007 U.S. Dist. LEXIS 45353, at \*5 (M.D. Fla. 2007) ..... 10

*SEC v. Wencke*

622 F.2d 1363 (9th Cir. 1980)..... 8

| 1  |   | <u>Page(s)</u> |
|----|---|----------------|
| 2  | <u>Statutes</u>   |                |
| 3  | 28 U.S.C. § 2001.....   | 10             |
| 4  | 28 U.S.C. § 2001(a).....  | 10, 11         |
| 5  | 28 U.S.C. § 2001(b).....  | 10             |
| 6  | 28 U.S.C. § 2002.....   | 10             |
| 7  | <u>Treatises</u>  |                |
| 8  | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 342 |                |
| 9  | (3d ed. 1992).....  | 10             |
| 10 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 344 |                |
|    | (3d ed. 1992).....  | 10             |
| 11 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 482 |                |
| 12 | (3d ed. 1992).....  | 9              |
| 13 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u>       |                |
|    | § 482(a) (3d ed. 1992). ....  | 10             |
| 14 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 487 |                |
| 15 | (3d ed. 1992).....  | 9              |
| 16 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 489 |                |
|    | (3d ed. 1992).....  | 10             |
| 17 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 491 |                |
| 18 | (3d ed. 1992).....  | 10             |
| 19 | 2 Ralph Ewing Clark, <u>Treatise on Law &amp; Practice of Receivers</u> § 500 |                |
|    | (3d ed. 1992).....  | 9              |
| 20 |   |                |
| 21 |   |                |
| 22 |   |                |
| 23 |   |                |
| 24 |   |                |
| 25 |   |                |
| 26 |   |                |
| 27 |   |                |
| 28 |   |                |

1 Krista Freitag ("Receiver"), the Court-appointed permanent receiver for  
2 Defendant ANI Development, LLC, Relief Defendant American National  
3 Investments, Inc., and their subsidiaries and affiliates ("Receivership Entities"),  
4 submits this Memorandum of Points and Authorities in Support of her concurrently-  
5 filed Motion for Approval of Sale of Parking Lot Property ("Motion").

6 **I. BACKGROUND FACTS**

7 One of the assets included in the receivership estate is an approximately  
8 3,004 square foot parking lot located at 3800 Mission Boulevard, San Diego,  
9 California ("Property"). The Property was purchased on August 13, 2015 for  
10 \$1,150,000. Title was originally taken in the name of San Jose Parking Lot, LLC,  
11 and later transferred to an affiliated Receivership Entity, 3768 Mission Blvd, LLC,  
12 on June 7, 2018. Freitag Decl., ¶ 2.

13 The parking lot has very little in the way of operating expenses, generates a  
14 steady stream of modest revenue and supports the business operations of the nearby  
15 restaurant, so the Receiver determined the best course of action was to continue  
16 operations at the parking lot, and prepare the Property for sale in the short-term,  
17 along with other restaurant-related properties included in the receivership estate.  
18 Freitag Decl., ¶ 3.

19 For all of the restaurant-related properties included in the receivership estate  
20 (in which the Property is grouped), the Receiver and her staff interviewed three  
21 licensed brokers with experience selling restaurants in San Diego. After considering  
22 their experience and qualifications, the Receiver decided to use two brokers –  
23 Colliers International ("Broker") for stand-alone concept restaurant-related properties  
24 owned (a leased parking lot was also included in this grouping) by the Receivership  
25 Entities (including the Property) and Next Wave for the Surf Rider Pizza and Bao  
26 Beach restaurant concepts operated at leased and owned property locations. Freitag  
27 Decl., ¶ 4.

28

1 Broker publicized and advertised the restaurant-related properties owned by  
2 the Receivership Entities, including the Property, on LoopNet and CoStar (two  
3 widely used online databases for commercial property listings) and CREXi (Collier's  
4 International propriety online database). Broker also caused a press release to be  
5 issued, which was published in the San Diego Union-Tribune. Further, Broker sent a  
6 series of direct emails about the restaurant-related properties to over 5,000 potential  
7 buyers and investors. This activity generated 228 visitors to the CREXi webpage for  
8 the portfolio of restaurants, which led to 142 signed confidentiality agreements and a  
9 total of 28 offers for all of the properties marketed by Broker. Freitag Decl., ¶ 5.

10 In preparation for the sales, and as requested by the Broker, the Receiver  
11 ordered various reports and provided relevant internal documents to create a typical  
12 due diligence package specific to each asset. The Receiver also set a "Call for  
13 Offers" deadline of February 3, 2020. The Broker used the CREXi website to host  
14 the due diligence materials for the properties, an offering memorandum summarizing  
15 various marketing points about the properties and detailing the Court sale process,  
16 and a form of Purchase and Sale Agreement and Joint Escrow Instructions ("Form  
17 PSA") prepared in advance by the Receiver, with assistance from her counsel. The  
18 Form PSA has all contingencies removed and provides for the overbid, public  
19 auction, and Court approval process. Prospective purchasers were instructed to  
20 complete their due diligence and submit their executed Form PSA by the Call for  
21 Offers deadline. Freitag Decl., ¶ 6.

22 For the Property, a total of five executed Form PSA's were received. The  
23 highest and best was from Richard Uy and Josephine Jennifer Uy ("Buyer") in the  
24 amount of \$1,011,000. With the assistance of her counsel, the Receiver finalized a  
25 Form PSA with Buyer and then countersigned Buyer's PSA. Freitag Decl., ¶ 7.

26 The Property is encumbered by a deed of trust securing a loan issued by  
27 American National Insurance Company ("ANICO"). The ANICO loan also  
28 encumbers a nearby property (3768 Mission Blvd.) on which Saska's restaurant

1 operates. The Receiver has recently moved for Court approval of the sale of the  
 2 Saska's property (including personal property and liquor license), subject to overbid.  
 3 Dkt. 276. The Receiver expects the closing of the sale of the Saska's property to  
 4 provide sufficient funds to pay off the ANICO loan, which will then leave the  
 5 Property unencumbered. Freitag Decl., ¶ 8.

6 Depending on when the sale closes, the Receiver estimates that property tax  
 7 credit received at closing will likely be in the range of approximately \$1,300 to  
 8 \$1,500 (the second installment of property taxes for 2019-2020 is expected to be paid  
 9 prior to closing, so the receivership estate will actually receive a credit at closing for  
 10 the pro-rated portion of the taxes paid for the period from the date of closing through  
 11 June 30, 2020). Broker's commission pursuant to the listing agreement is 4% of the  
 12 sale price, or \$40,440, which amount will be split with Buyer's broker. The costs of  
 13 sale, including escrow, title and recording fees are anticipated to be approximately  
 14 \$5,000. While exact amounts will be determined at closing, after all of the  
 15 aforementioned amounts are paid out of escrow, and assuming the ANICO loan has  
 16 been paid in full from the closing of the Saska's sale, the net sale proceeds for the  
 17 receivership estate are estimated to be in the range of approximately \$960,000 to  
 18 \$970,000. Freitag Decl., ¶ 9.

## 19 **II. PROPOSED SALE**

20 The key terms of the proposed Purchase and Sale Agreement and Joint Escrow  
 21 Instructions ("Agreement"), a copy of which is attached to the Freitag Declaration as  
 22 Exhibit A, are summarized as follows:

23 **Overbid and Court Approval.** The sale is subject to qualified overbids  
 24 pursuant to the public sale process laid out below and approval by the Court.

25 **Purchase Price.** The purchase price is \$1,011,000, which will be paid in cash.

26 **Deposit.** Buyer has deposited \$25,000 into escrow.  
 27  
 28

1           **Closing Date.** Closing of the sale of the real property shall occur within five  
2 business days of entry of the Court order approving the sale or within five business  
3 days of the closing of the Saska's real property sale, whichever is later.

4           **Broker's Commission.** Pursuant to the listing agreement, Broker is to be paid  
5 a commission of 4% of the gross sales price. In the proposed sale, the total  
6 commission would be \$40,440.

### 7                                   **III. LEGAL STANDARD**

8           "The power of a district court to impose a receivership or grant other forms of  
9 ancillary relief does not in the first instance depend on a statutory grant of power  
10 from the securities laws. Rather, the authority derives from the inherent power of a  
11 court of equity to fashion effective relief." *SEC v. Wencke*, 622 F.2d 1363, 1369  
12 (9th Cir. 1980). The "primary purpose of equity receiverships is to promote orderly  
13 and efficient administration of the estate by the district court for the benefit of  
14 creditors." *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir 1986). As the appointment  
15 of a receiver is authorized by the broad equitable powers of the court, any  
16 distribution of assets must also be done equitably and fairly. *See SEC v. Elliot*,  
17 953 F.2d 1560, 1569 (11th Cir. 1992).

18           District courts have the broad power of a court of equity to determine the  
19 appropriate action in the administration and supervision of an equity receivership.  
20 *See SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). The Ninth  
21 Circuit explained:

22           A district court's power to supervise an equity  
23 receivership and to determine the appropriate action to be  
24 taken in the administration of the receivership is  
25 extremely broad. The district court has broad powers and  
26 wide discretion to determine the appropriate relief in an  
27 equity receivership. The basis for this broad deference to  
28 the district court's supervisory role in equity  
receiverships arises out of the fact that most receiverships  
involve multiple parties and complex transactions. A  
district court's decision concerning the supervision of an  
equitable receivership is reviewed for abuse of discretion.



1 *Id.* (citations omitted); *see also CFTC. v. Topworth Int'l, Ltd.*, 205 F.3d 1107, 1115  
2 (9th Cir. 1999) ("This court affords 'broad deference' to the court's supervisory role,  
3 and 'we generally uphold reasonable procedures instituted by the district court that  
4 serve th[e] purpose' of orderly and efficient administration of the receivership for the  
5 benefit of creditors."). Accordingly, the Court has broad discretion in the  
6 administration of the receivership estate and the disposition of receivership assets.

7 **A. The Court's Authority to Approve Sale**

8 It is widely accepted that a court of equity having custody and control of  
9 property has power to order a sale of the same in its discretion. *See, e.g., SEC v.*  
10 *Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (the District Court has broad powers  
11 and wide discretion to determine relief in an equity receivership). "The power of sale  
12 necessarily follows the power to take possession and control of and to preserve  
13 property." *See SEC v. American Capital Invest., Inc.*, 98 F.3d 1133, 1144 (9th Cir.  
14 1996), *cert. denied* 520 U.S. 1185 (decision abrogated on other grounds) (*citing*  
15 2 Ralph Ewing Clark, Treatise on Law & Practice of Receivers § 482 (3d ed. 1992)  
16 (*citing First Nat'l Bank v. Shedd*, 121 U.S. 74, 87 (1887))). "When a court of equity  
17 orders property in its custody to be sold, the court itself as vendor confirms the title  
18 in the purchaser." 2 Ralph Ewing Clark, Treatise on Law & Practice of  
19 Receivers § 487 (3d ed. 1992).

20 "A court of equity, under proper circumstances, has the power to order a  
21 receiver to sell property free and clear of all encumbrances." *Miners' Bank of*  
22 *Wilkes-Barre v. Acker*, 66 F.2d 850, 853 (2d Cir. 1933). *See also*, 2 Ralph Ewing  
23 Clark, Treatise on Law & Practice of Receivers § 500 (3d ed. 1992). To that end, a  
24 federal court is not limited or deprived of any of its equity powers by state statute.  
25 *Beet Growers Sugar Co. v. Columbia Trust Co.*, 3 F.2d 755, 757 (9th Cir. 1925)  
26 (state statute allowing time to redeem property after a foreclosure sale not applicable  
27 in a receivership sale).

28

1 Generally, when a court-appointed receiver is involved, the receiver, as agent  
2 for the court, should conduct the sale of the receivership property. *Blakely Airport*  
3 *Joint Venture II v. Federal Sav. and Loan Ins. Corp.*, 678 F. Supp. 154, 156  
4 (N.D. Tex. 1988). The receiver's sale conveys "good" equitable title enforced by an  
5 injunction against the owner and against parties to the suit. *See* 2 Ralph Ewing  
6 Clark, Treatise on Law & Practice of Receivers §§ 342, 344, 482(a), 487, 489, 491  
7 (3d ed. 1992). "In authorizing the sale of property by receivers, courts of equity are  
8 vested with broad discretion as to price and terms." *Gockstetter v. Williams*, 9 F.2d  
9 354, 357 (9th Cir. 1925).

10 **B. 28 U.S.C. § 2001**

11 Specific requirements are imposed by 28 U.S.C. § 2001 for public sales of real  
12 property under subsection (a) and specific requirements for private sales of real  
13 property under subsection (b). Although both involve significant cost and delay, the  
14 cost and delay of a public sale are significantly less than those for a private sale.  
15 *SEC v. Goldfarb*, 2013 U.S. Dist. LEXIS 118942, at \*5 (N.D. Cal. 2013)  
16 ("Section 2001 sets out two possible courses of action: (1) property may be sold in  
17 public sale; or (2) property may be sold in a private sale, provided that three separate  
18 appraisals have been conducted, the terms are published in a circulated newspaper  
19 ten days prior to sale, and the sale price is no less than two-thirds of the valued  
20 price."). Therefore, by proceeding under Section 2001(a), the receivership estate can  
21 avoid the significant costs and delay of (a) the Court having to appoint three  
22 disinterested appraisers, and (b) obtaining three appraisals from such appraisers.

23 The requirements of a public sale under Section 2001(a) are that notice of the  
24 sale be published as proscribed by Section 2002 and a public auction be held at the  
25 courthouse "as the court directs." 28 U.S.C. § 2001(a); *SEC v. Capital Cove*  
26 *Bancorp LLC*, 2015 U.S. Dist. LEXIS 174856, at \*13 (C.D. Cal. 2015); *SEC v.*  
27 *Kirkland*, 2007 U.S. Dist. LEXIS 45353, at \*5 (M.D. Fla. 2007). In terms of  
28 publication of notice, Section 2002 provides:

1 A public sale of realty or interest therein under any order,  
2 judgment or decree of any court of the United States shall  
3 not be made without notice published once a week for at  
4 least four weeks prior to the sale in at least one  
5 newspaper regularly issued and of general circulation in  
6 the county, state, or judicial district of the United States  
7 wherein the realty is situated.

8 If such realty is situated in more than one county, state,  
9 district or circuit, such notice shall be published in one or  
10 more of the counties, states, or districts wherein it is  
11 situated, as the court directs. The notice shall be  
12 substantially in such form and contain such description of  
13 the property by reference or otherwise as the court  
14 approves. The court may direct that the publication be  
15 made in other newspapers.

16 This section shall not apply to sales and proceedings  
17 under Title 11 or by receivers or conservators of banks  
18 appointed by the Comptroller of the Currency.

19 The notice of sale is sufficient if it describes the property and the time, place,  
20 and terms of sale. *Breeding Motor Freight Lines, Inc. v. Reconstruction Finance*  
21 *Corp.*, 172 F.2d 416, 422 (10th Cir. 1949). The Court may limit the auction to  
22 qualified bidders, who "(i) submit to the Receiver . . . in writing a bona fide and  
23 binding offer to purchase the [property]; and (ii) demonstrate . . ., to the satisfaction  
24 of the Receiver, that it has the current ability to consummate the purchase of the  
25 [property] per the agreed terms." *Regions Bank v. Egyptian Concrete Co.*, 2009 U.S.  
26 Dist. LEXIS 111381, at \*8 (E.D. Mo. 2009).

#### 27 **IV. DISCUSSION**

28 The Receiver believes the proposed sale to Buyer pursuant to the Agreement is  
in the best interests of the receivership estate. The asset was broadly advertised and  
marketed to prospective purchasers by Broker, five offers were received, the highest  
and best selected, and the Agreement signed. The purchase price therefore reflects  
the market value for the Property. Freitag Decl., ¶ 9.

Moreover, the proposed sale is subject to overbid to further ensure the highest  
and best price is obtained. The Receiver proposes to conduct a public auction  
consistent with the requirements of Section 2001(a). Specifically, the Receiver will

1 publish the following notice of the sale once a week for four weeks in the San Diego  
2 Union-Tribune, a newspaper of general circulation in the San Diego area:

3 In the action pending in U.S. District Court for the  
4 Southern District of California, Case No. 19-CV-01628-  
5 LAB-AHG, Securities and Exchange Commission v.  
6 Gina Champion-Cain, et al., notice is hereby given that  
7 the court-appointed receiver will conduct a public auction  
8 for the real property located at 3800 Mission Blvd., San  
9 Diego, California 92109 in San Diego County,  
10 California. Sale is subject to Court confirmation after the  
11 auction is held. Minimum bid price is at least  
12 \$1,036,000. The auction will take place on April 23,  
13 2020, at 1:30 p.m. in front of the entrance to the United  
14 States Courthouse, 221 W. Broadway, San Diego,  
California. To be allowed to participate in the auction,  
prospective purchasers must meet certain bid  
qualification requirements, including submitting a signed  
purchase and sale agreement, an earnest money deposit  
of \$27,500, and proof of funds. All bidders must be  
qualified by 5:00 p.m. PT on April 21, 2020, by  
submitting the required materials to the receiver at 501  
West Broadway, Suite 290, San Diego, California,  
92101. If interested in qualifying as a bidder, please  
contact Geno Rodriguez at (619) 567-7223 or  
grodriguez@ethreadvisors.com.

15 In order to conduct an orderly auction and provide sufficient time for the  
16 publication of notices discussed above, the Receiver will require bidders to complete  
17 the above steps by April 21, 2020 ("Bid Qualification Deadline") and conduct the  
18 live public auction on April 23, 2020.

19 The Receiver, through Broker, will inform all interested persons of the  
20 opportunity to overbid at the public auction, provided they qualify themselves to bid  
21 by the Bid Qualification Deadline by (a) signing a purchase and sale agreement for  
22 the properties on the same terms and conditions as Buyer, but with a purchase price  
23 of at least \$1,036,000, (b) providing the Receiver with an earnest money deposit of  
24 \$27,500, and (c) providing proof of funds necessary to close the sale transaction in  
25 the form of a current bank statement, cashier's check delivered to the Receiver, or  
26 other evidence deemed sufficient by the Receiver.

27 In the event one or more prospective purchasers qualify themselves to bid, the  
28 auction will be conducted by the Receiver as noted above and bids will be allowed in

1 increments of at least \$5,000. The Receiver will then file a notice advising the Court  
2 of the result of the auction (*i.e.*, the highest bid) and seek entry of an order  
3 confirming the sale.<sup>1</sup> Earnest money deposits provided by bidders who are  
4 unsuccessful will be promptly returned to them. In the event no prospective  
5 purchasers qualify themselves to bid by the Bid Qualification Deadline, the Receiver  
6 will notify the Court and seek entry of an order approving the sale to Buyer.

7 **V. CONCLUSION**

8 For the reasons discussed above, the Receiver requests (a) approval of the sale  
9 of the Property to Buyer (or their designee) pursuant to the Agreement attached to  
10 the Freitag Declaration as Exhibit A, and (b) authority to take all steps necessary to  
11 close the sale, with the net sale proceeds after all third-party payments are made from  
12 escrow going to the receivership estate.

13  
14 Dated: March 30, 2020

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By:           s/Edward G. Fates          

DAVID R. ZARO  
EDWARD G. FATES  
NORMAN M. ASPIS  
Attorneys for Receiver  
KRISTA FREITAG

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27 <sup>1</sup> In the event that multiple qualified overbids are received and participate in the  
28 auction, the Receiver will seek Court approval of the highest bid and the back-up  
bid, such that if the highest bidder fails to the close the sale for any reason, the  
Receiver can proceed to close the sale with the back-up bidder without delay.