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BIDDER'S INFORMATIONAL PACKAGE 70 ELMVALE PLACE PITTSFIELD, MASSACHUSETTS

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EXECUTOR'S MEMORANDUM OF SALE

This Memorandum of Sale is made this _____ day of January, 2010, by Glen B. Binder, of 267 Park Street, Upper Montclair, New Jersey 07043, in his capacity as Executor Under the Will of Gerald Binder, Berkshire Probate and Family Court, Docket No. BE09P0483EA (the "Executor"), Aaron Posnik and Co., Inc. (the "Auctioneer") and _____ of _____ (the "Buyer").

1. EXECUTOR'S SALE AT PUBLIC AUCTION. Pursuant to a public auction (the "Auction") conducted on January 28, 2010 by the Auctioneer on behalf of the Executor as appointed by decree of the Berkshire Probate and Family Court dated August 25, 2009 (the "Appointment") a copy of which is annexed hereto as Exhibit A, the Buyer, as the highest bidder, agrees to purchase the property described below (the "Property") in accordance with the terms hereof.

2. DESCRIPTION OF THE PROPERTY. The Property shall mean the following:

a. The Realty. A certain parcel of land with the buildings thereon situated at 70 Elmvale Place, Pittsfield, Berkshire County, Massachusetts, as more particularly described in Exhibit B annexed hereto.

b. Inaccuracy of the description of the Property and known and unknown defects SHALL NOT BE REASON FOR FAILURE ON THE PART OF THE BUYER TO COMPLETE THE SALE. The Buyer will consider the Property as sufficiently described by the descriptions available at the time of the Auction. Verbal qualifications by the Executor or Auctioneer or their respective agents SHALL NOT INVALIDATE nor become part of this sale as THE BUYER HAS EXAMINED THE PROPERTY TO HIS/HER SATISFACTION.

3. TRANSFER OF THE PROPERTY. The Realty shall be conveyed by fiduciary deed, substantially in the form set forth in attached Exhibit B.

4. PRICE AND DEPOSIT. The bid price for which the Property has been sold to the Buyer is _____ of which \$10,000.00 has been paid this day in escrow to the Executor. The Executor shall be entitled to any interest earned on the deposit and the amount to be paid by the Buyer shall not be adjusted to reflect any interest earned on the deposit. Ten percent (10%) of the purchase price shall be paid by certified or bank treasurer's check and delivered to the offices of Seewald, Jankowski & Spencer, P.C., 5 East Pleasant Street, Amherst, MA 01002-1501, within five business days from the date hereof.

5. BALANCE OF PRICE; CLOSING. The deed and associated papers shall be delivered and the balance of the consideration paid by certified or bank treasurer's check at the Berkshire Middle Registry of Deeds at ten o'clock (10:00) A.M. on or before the thirtieth day following the date hereof, time being of the essence, unless the Executor otherwise agrees (the "Closing").

6. TITLE. Buyer acknowledges that it has reviewed the contents of the Bidder's Package with respect to the Property and the materials contained therein, including, without limitation, this Memorandum of Sale and the Municipal Lien Certificate (referred to collectively as the "Bidder's Package"), and agrees to purchase the Property subject to the items disclosed in such Bidder's Package.

In the event the Executor cannot convey title to the Property as stipulated, for any reason whatsoever except the fault of the Buyer, the deposit shall be refunded and all rights hereunder shall cease, and the Buyer shall have no recourse against the Executor or his employees, agents and representatives, whether at law or in equity; provided, however, that at the election of the Buyer and the Executor, Buyer may accept such title as the Executor can deliver to the Property in its then condition and to pay therefor the purchase price without deduction.

7. RISK OF LOSS/INJURY.

a. The Executor shall be under no obligation to maintain casualty insurance covering the Property after the execution of this Agreement. If the Property is damaged by fire or other casualty after the date hereof and prior to the Closing, Buyer shall nonetheless accept the deed to the Property and pay therefor the full balance of the bid price. Buyer may at its expense, obtain insurance on the Property upon the execution of this Agreement to insure itself against any loss or damage occurring prior to Closing. In the event of any loss or damage has occurred to the Property prior to the execution of this Agreement, any insurance proceeds now or hereafter received for such damage shall belong to the Executor, it being acknowledged that, except as stated herein, the Premises shall be delivered in their AS IS condition.

b. Neither Buyer nor any of its agents or employees shall enter upon the Property prior to Closing for any purpose without obtaining the prior written authorization of the Executor. In the event the Executor, in his sole and exclusive discretion, permits the Buyer or its agents to enter upon the Property, Buyer indemnifies the Executor for any loss, damage, liability or expense, including reasonable attorneys' fees, incurred on account of such entry and any activity conducted by Buyer, it being acknowledged that any entry or activity shall be at the sole risk and expense of the Buyer.

8. ACCEPTANCE OF DEED. The acceptance of a deed to the Property by the Buyer shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed or arising out of said Auction on the part of the Executor to be performed or observed. The Executor shall be under no obligation to provide any certifications or affidavits to the Buyer, Buyer's lender or title company with regard to the conduct of the sale or condition of the Property.

9. CONDITION OF THE PROPERTY. THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS", AND "WITH ALL FAULTS" AS OF THE DATE OF CLOSING. EXECUTOR WILL MAKE NO AGREEMENT TO ALTER, REPAIR OR IMPROVE THE PROPERTY. EXECUTOR AND AUCTIONEER SPECIFICALLY DISCLAIM ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING THE PROPERTY OR ITS OPERATION, OR ANY OF THE INFORMATION CONTAINED IN THE BIDDER'S

PACKAGE, EXCEPT AS SPECIFICALLY SET FORTH IN THE MEMORANDUM OF SALE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO CONSTRUCTION, FITNESS FOR HABITATION, ZONING, USE, OR CONDITION OF THE PROPERTY, OR THE EXISTENCE ON OR UNDER THE PROPERTY OF ANY OIL, HAZARDOUS WASTE, SUBSTANCES, OR MATERIALS, ASBESTOS, UREA FORMALDEHYDE FOAM INSULATION, LEAD PAINT OR ABOVE GROUND OR UNDERGROUND STORAGE TANKS FOR OIL OR OTHER MATERIALS. BUYER SHOULD INDEPENDENTLY EXAMINE, OR HAVE ITS OWN CONSULTANTS EXAMINE, ALL FINANCIAL AND LEGAL DOCUMENTS, CONTRACTS, LICENSES, PERMITS, ENVIRONMENTAL MATTERS, AND INFORMATION RELATING TO THE PROPERTY. ALL PURCHASES OF THE PROPERTY WILL BE BASED SOLELY ON BUYER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE ON ANY INFORMATION PROVIDED BY EXECUTOR OR AUCTIONEER. IN THE EVENT ANY INFORMATION CONTAINED IN THE BIDDER'S PACKAGE VARIES FROM DATA OBTAINED ELSEWHERE, THE INFORMATION CONTAINED IN THE BIDDER'S PACKAGE SHALL GOVERN, SUBJECT TO BEING UPDATED AT THE SALE.

Without limiting the generality of the foregoing, it is acknowledged as follows:

a. No representation or warranty is made as to whether any contracts, leases, licenses or permits (including without limitation any licenses or permits needed to operate any aspect of the Property) are in full force and effect, whether the same are transferable or assumable, or whether they terminate upon sale of the Property.

b. No representation is made as to the zoning or permitted use of the Property, including without limitation, whether the Property can be used as a residence.

c. The Buyer agrees to investigate all of the foregoing prior to the sale to its satisfaction and indemnifies and holds the Executor harmless from all liability and expenses, including reasonable attorney's fees, incurred by the Executor on account of the condition or use of the Property.

10. BUYER'S DEFAULT; DAMAGES. The Auction sale is not complete until the Buyer has executed this Memorandum of Sale and made the required deposit. Failure of the Buyer to execute this Memorandum of Sale or failure by the Buyer to fulfill the Buyer's agreements herein, shall constitute a default hereunder. Upon Buyer's default, the Executor shall be entitled, at its election, to either retain the deposit as liquidated damages or to hold Buyer responsible for all damages caused by its breach of contract, including, without limitation any deficiency resulting from a resale, whether to the second highest bidder or otherwise, together with costs of resale and any costs of maintaining or owning the Property. In the event the Executor resells the Property, Buyer shall have no claim to any excess of the eventual sale price over the amount bid.

11. ASSIGNMENT. The successful bidder may not assign the bid or its rights under this Memorandum of Sale without the prior written consent of the Executor.

12. DEED STAMPS AND FEES/ADJUSTMENTS. The Buyer shall pay all recording fees in connection with the transfer of the Property, as well as all of Buyer's costs in connection with the transaction, including but not limited to title examinations and title premiums.

13. CONSTRUCTION OF AGREEMENT. This instrument is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both the Executor and the Buyer. If two or more persons are named herein as Buyer, their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Memorandum or to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this Agreement and which is the subject of a title or practice standard adopted by the Massachusetts Real Estate Bar Association shall be governed by such standards or practices to the extent applicable.

IN WITNESS WHEREOF, the parties have executed this Memorandum in multiple counterparts as of the date first written above.

GLEN B. BINDER, EXECUTOR

BUYER:

By: _____

AUCTIONEER

By: _____

Received from Buyer the sum of \$10,000.00 as a deposit on account of the above Memorandum, subject to the terms and conditions of sale hereinabove set forth.

Exhibits

A - Appointment of Executor

B - Form of Deed

Commonwealth of Massachusetts

The Trial Court

Probate and Family Court Department

Berkshire Division

Docket No. B209P0483EA

Probate of Will With/Without Sureties

Name of Decedent Gerald Binder

Domicile at Death 211 Pleasant Street, Dalton
(street and no.) (city or town)

Berkshire County, MA 01226 Date of Death June 13, 2009
(county) (zip)

Name and address of Petitioner(s) Glen B. Binder, 267 Park Street,
Upper Montclair, New Jersey 07043 Status Son

Heirs at law or next of kin of deceased including surviving spouse:

Name	Residence <small>(minors and incompetents must be so designated)</small>	Relationship
Glen B. Binder	267 Park Street, Upper Montclair, NJ 07043	Son
Kevin S. Binder	6611 Greenspring Ave., Baltimore, MD 21209	Son
Kathy Petrucci	27 Sunset Drive, Dalton, MA 01226	Daughter
Dawn Sacks	26 Lead Mine Road, Leverett, MA 01054	Daughter

That said deceased left a will and codicil(s) herewith presented, wherein your petitioner(s) is/are named execut or and wherein the testat or had requested that your petitioner(s) be exempt from giving surety on his/her bond(s).

The petitioner(s) hereby certifies that a copy of this document, along with a copy of the decedent's death certificate has been sent by certified mail to the Division of Medical Assistance, P.O. Box 15205, Worcester, Massachusetts 01615-9906.

Wherefore your petitioner(s) pray(s) that said will and codicil(s) may be proved and allowed, and that he/she/they be appointed execut or thereof, with/without surety on his/her bond(s) and certifies under the penalties of perjury that the statements herein contained are true to the best of his/her knowledge and belief.

Date 7/7/09

Signature(s) [Signature]
Glen B. Binder, Individually and as Heir at Law

The undersigned hereby assent to the foregoing petition and to the allowance of the will without testimony.

[Signature]
Kathy Petrucci
Dawn Sacks

DECREE

All persons interested having been notified in accordance with the law or having assented and no objections being made thereto, it is decreed that said instrument(s) be approved and allowed as the last will and testament of said deceased, and that said petitioner(s): Glen B. Binder of Upper Montclair, New Jersey and _____ of _____

be appointed execut or thereof, first giving bond with out sureties for the due performance of said trust.

Date August 31 2009

[Signature]
Justice of the Probate and Family Court

A True Copy ATTEST REGISTER OF PROBATE

Property Location:

70 Elmvale Place
Pittsfield, MA

_____ (Space Above This Line for Recording Data) _____

FIDUCIARY DEED

KNOW ALL BY THESE PRESENTS

that I, **GLEN B. BINDER**, of Upper Montclair, New Jersey, Executor U/W/O Gerald Binder, Berkshire Probate and Family Court, Docket No. BE09P0483EA, pursuant to power of sale contained in Article V, C of said Will, and individually,

for consideration paid and in full consideration of

grant to

of

the land in Pittsfield, Berkshire County, Massachusetts, bounded and described on Exhibit "A" attached hereto and made a part hereof.

Executed as a sealed instrument this _____ day of _____, 2010.

Witness

GLEN B. BINDER, EXECUTOR,
U/W/O GERALD BINDER, AND
INDIVIDUALLY

, ss.

On this _____ day of _____, 2010, before me the undersigned notary public, personally appeared **GLEN B. BINDER, EXECUTOR U/W/O GERALD BINDER, AND INDIVIDUALLY**, and proved to me through satisfactory evidence of identification, which was/were [] _____ Driver's License [] personal knowledge of the identity of each signatory [] Other: _____, to be the person(s) whose name is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

EXHIBIT "A"

PARCEL I.

Beginning at a point which is the southeasterly corner of land heretofore conveyed by Kinney Worsted Yarn Company to Greymar Realty, Inc. by deed dated April 1, 1960, recorded in the Berkshire Middle District Registry of Deeds in Book 703, Page 500, thence westerly along the southerly line of said property 425 feet, more or less, to a stone bound at the southwesterly corner of the said property being also a corner in the land of the proprietors of the Pittsfield Cemetery: south 26° 45' 40" west 434.87 feet in the line of land of the said cemetery to a stone bound at the corner: thence deflecting to the left approximately 90° 85' feet to a stone bound in the southwesterly corner of land conveyed to Kinney Worsted Yarn Company by deed of S. W. & C. Russell Manufacturing Company dated September 2, 1920, and recorded in said Registry in Book 400, Page 157; thence southerly 63° 14' east 104 feet to the northeasterly corner of Parcel II hereinafter described; thence northeasterly 55 feet, more or less, to a point in Parcel II hereinafter described; thence southeasterly 20 feet to a point in said Parcel II; thence northeasterly 65 feet to the northeast corner of said Parcel II; thence southeasterly 120 feet along the easterly line of Parcel II to the southeast corner of said Parcel II; thence northerly 31° 54' east 267.13 feet to a stone bound in the westerly line of Elmvale Place, so-called; thence northerly 48° 10' west across said Elmvale Place 43.21 feet, more or less, to a point; thence northerly 10° 38' west 158.17; thence northerly 27° 38' west 62.94 feet thence northerly 22° 56' east 88.89 feet; thence northerly 3° 51' east 132.93 feet, to the place of beginning.

The above parcel contains approximately 4 ½ acres of land to the same more or less.

PARCEL II.

Beginning at a point in the easterly line of land conveyed by S. W. & C. Russell Manufacturing Company to Kinney Worsted Yarn Company as aforesaid one hundred twenty (120) feet northerly in said easterly line from the southeast corner of the parcel conveyed by said deed; thence in the said easterly line south 28° 35' west one hundred twenty (120) feet to said southeast corner of the parcel conveyed by said deed; thence north 66° 30' west in the southerly line of the land conveyed by said deed, one hundred forty (140) feet; thence north 28° 35' east fifty-five (55) feet; thence south 66° 30' east twenty (20) feet, thence north 28° 35' east, sixty-five (65) feet; thence south 66° 30' east one hundred twenty (120) feet to the place of beginning.

Excepted therefrom the portion of said premises conveyed by B. B. M. Realty Company to The Fahey Beverage Company, Inc. by deed dated May 17, 1984 and recorded in said Registry of Deeds in Book 1094 Page 1112 & C and subject to the easements contained therein.

Said parcels are conveyed subject to those various rights of way and easements referred to in the aforesaid deed to Greymar Realty, Inc. subject to two easements to the City of Pittsfield recorded in said Registry in Book 289, Page 14 and Book 456, Page 277 respectively, and subject to those easements given to the Pittsfield Electric Company recorded in said Registry in Book 492, Page 523 subject to the rights now existing severally in Kinney Worsted Yarn Company and Greymar Realty, Inc. their successors and assigns to use, repair, replace and reconstruct all common drains, sewer, pipe lines, conduits, and utility lines serving land of Kinney Worsted Yarn Company and Greymar Realty, Inc. and running over, on, under, or in the above described premises with the right of said companies to enter the aforesaid premises insofar as reasonably necessary to accomplish such work. Together with rights to use, pass over, or employ a private way running west from Wahconah Street and known as Elmvale Place, for any purpose whatsoever to be exercised in common with others and together with all the rights and privileges which may now exist which it has to use any and all common drains, sewers, pipe lines, conduits, and utility lines, or rights of passage and all other rights of whatever nature appurtenant to the premises herein conveyed.

Together with the right to maintain, at its own expense and cost said Elmvale Place and to rebuild, repair, enlarge or construct or reconstruct said way and to relocate, rebuild, repair, repair, replace, enlarge and improve said common drains, sewers, pipe lines, conduits, and utility lines on its own land and to enter insofar as necessary and reasonable, lands of Kinney Worsted Yarn Company, its successors and assigns or Greymar Realty, Inc., its successors or assigns, to accomplish such work. In connection with repairs of jointly used water mains and other utility lines, it shall be the duty of all parties involved to jointly repair the same. Together with all of the riparian rights which the grantor has which are appurtenant to the above conveyed premises.

Being the same premises conveyed to BBM Realty Company by deed of Jean Binder, Gerald Binder and Robert C. Marmorek, dated November 1, 1984 and recorded with the Middle Berkshire County Registry of Deeds at Book 1105, Page 13. Gerald Binder died on June 13, 2009. See Berkshire Probate and Family Court, Docket No. BE09P0483EA.

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msheehan

CITY OF PITTSFIELD
REAL ESTATE TAX STATEMENT

PG 1
txtaxstm

PARCEL: G12-0002-002

#13-549-3818
#13 731 5946

LOCATION: 70 ELMVALE PL

CURRENT OWNER:
BBM REALTY COMPANY
70 ELMVALE PL
PITTSFIELD MA 01201

CURRENT STATUS:
ACRES: 4.200
LAND VALUATION: 101,800
BUILDING VALUATION: 194,800
EXEMPTIONS: 0
TAXABLE VALUATION : 296,600

DEED DATE: 03/26/1999 BOOK/PAGE: 1653/803

INTEREST DATE: 01/22/2010

YEAR	TYPE	BILL INSTALLMENT CHARGE	BILLED	PRIN DUE	INT DUE	TOTAL DUE
2010	RE-R	1036				
		Installment 1 TXREC	2,194.99	73.25	2.39	75.64
		Inst 1 Total	2,194.99	73.25	2.39	75.64
		Installment 2 TXREC	2,194.99	2,194.99	68.19	2,263.18
		Inst 2 Total	2,194.99	2,194.99	68.19	2,263.18
		Installment 3 TXREC	2,166.52	2,166.52	.00	2,166.52
		Inst 3 Total	2,166.52	2,166.52	.00	2,166.52
		Installment 4 TXREC	2,166.51	2,166.51	.00	2,166.51
		Inst 4 Total	2,166.51	2,166.51	.00	2,166.51
1036	Total		8,723.01	6,601.27	70.58	6,671.85
GRAND TOTALS			8,723.01	6,601.27	70.58	6,671.85

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CITY OF PITTSFIELD
PERSONAL PROPERTY TAX STATEMENT

PG 1
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PROPERTY : 11550

LOCATION: 70 ELMVALE PL

CURRENT OWNER:
J B PAPER CO INC
PO BOX 1147
PITTSFIELD MA 01202-1147

CURRENT STATUS:

TAXABLE VALUATION : 1,470

INTEREST DATE: 01/22/2010

YEAR	TYPE	BILL INSTALLMENT CHARGE	BILLED	PRIN DUE	INT DUE	TOTAL DUE
2010	PP-R	889				
		Installment 1				
		TXPP	10.88	.00	.00	PAID
		Inst 1 Total	10.88	.00	.00	.00
		Installment 2				
		TXPP	10.88	.00	.00	PAID
		Inst 2 Total	10.88	.00	.00	.00
		Installment 3				
		TXPP	10.74	10.74	.00	10.74
		Inst 3 Total	10.74	10.74	.00	10.74
		Installment 4				
		TXPP	10.73	10.73	.00	10.73
		Inst 4 Total	10.73	10.73	.00	10.73
889	Total		43.23	21.47	.00	21.47
GRAND TOTALS			43.23	21.47	.00	21.47

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CITY OF PITTSFIELD
CUSTOMER STATEMENT

PG 1
arcidstm

CURRENT OWNER:
J B PAPER CO
70 ELMVALE PLACE
PITTSFIELD MA 01201

Water/Sewer

CUSTOMER ID: 614561

INTEREST DATE: 01/22/2010

YEAR	TYPE	CHARGE	BILLED	PRIN DUE	INT/COST	TOTAL DUE
2010	UB-U	1 WATER, MET	29.26	.00	.00	PAID
		1 WATER, MET	6.75	.00	.00	PAID
		1 SEWER - ME	45.73	.33	.00	.33
		1 SEWER - ME	6.75	6.75	.00	6.75
		1 DEMAND UB	7.08	.00	.00	PAID
		BILL# 468893	95.57	7.08	.00	7.08
2010	UB-U	1 WATER, MET	14.72	14.72	.00	14.72
		1 WATER, MET	6.75	6.75	.00	6.75
		1 SEWER - ME	23.01	23.01	.00	23.01
		1 SEWER - ME	6.75	6.75	.00	6.75
		1 DEMAND UB	4.10	4.10	.00	4.10
		1st INST. TOTAL	55.33	55.33	.00	55.33
		BILL# 471876	55.33	55.33	.00	55.33
		GRAND TOTALS	150.90	62.41	.00	62.41

** END OF REPORT - Generated by Marilyn Sheehan **