

BIDDER'S INFORMATIONAL PACKAGE

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AUCTIONEER'S MEMORANDUM OF SALE AT PUBLIC AUCTION

The undersigned _____ of _____ (the "BUYER") hereby acknowledges that BUYER has this day purchased at a Mortgagee's Sale of Real Estate at Public Auction from Aaron Posnik & Co., Inc. (the "AUCTIONEER"), as agent for TD Bank, N.A. (the "SELLER"), that certain real estate (the "Premises") known as 615 Laurel Street, Lee, Massachusetts and more fully described in the Mortgagee's Sale of Real Estate notice attached hereto (the "Sale Notice"), for the sum of \$ _____ (the "Purchase Price"), which amount represents the BUYER's successful bid amount.

No personal property of any nature is included in this sale.

BUYER agrees to be bound by, and to comply with, and that the Premises are being sold subject to, the terms and conditions as stated in this Memorandum of Sale and the Sale Notice and also the additional terms and conditions read by the Auctioneer at the sale, a copy of which is attached hereto (the "Additional Terms and Conditions").

BUYER has this day paid to SELLER \$25,000 as a non-refundable deposit on the sale, with an additional deposit in the amount of \$ _____ to be paid by BUYER to SELLER, in accordance with the terms and conditions of the sale. Said deposit(s) shall be forfeited to the use of SELLER if BUYER fails to comply with any of the terms and conditions of the sale. Any such forfeiture shall not relieve BUYER of any liability under this agreement.

The balance of the Purchase Price is due and payable at the office of Cooley, Shrair P.C., at 1380 Main Street, Springfield, Massachusetts, as counsel for the SELLER, on or before September 22, 2014, by certified or bank check or other form acceptable to SELLER, and contemporaneous with a timely receipt by SELLER of such payment, SELLER shall convey the Premises to BUYER by delivery to BUYER of a statutory form foreclosure deed under the statutory power of sale (M.G.L. ch. 183, Appendix Form 11) from SELLER. Time is of the essence of this agreement.

In addition to the Purchase Price, BUYER assumes and agrees to pay all real estate taxes, water and sewer bills, municipal liens, tax titles, betterments, and assessments applicable to the Premises and, in addition to BUYER's own closing costs, all Massachusetts document tax stamps and recording charges applicable to this sale.

BUYER acknowledges that BUYER has not been influenced to enter into this transaction by, nor has BUYER relied upon, any warranty or representation of the SELLER or AUCTIONEER not expressly set forth or incorporated in this Memorandum of Sale.

AUCTIONEER acknowledges that SELLER has this day received from BUYER the \$25,000 non-refundable deposit and that the Premises were this day sold by AUCTIONEER at public auction for the Purchase Price noted above, subject to the terms and conditions contained herein and in the attached Sale Notice and Additional Terms and Conditions.

Signed as a sealed instrument on this 21st day of August, 2014.

BUYER:

Buyer's Signature

AUCTIONEER:

Aaron Posnik & Co., Inc.

By: _____
Name:
Title:

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage (the "Mortgage") given by The B J K Fusco, Inc. to TD Banknorth, N.A. dated May 20, 2008 and recorded with the Berkshire County Middle District Registry of Deeds in Book 4057, Page 229, of which Mortgage the undersigned TD Bank, N.A. (the "Mortgage Holder"), formerly known as TD Banknorth, N.A. prior to a name change from TD Banknorth, N.A. to TD Bank, N.A., is the present holder, for breach of the conditions of said Mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 a.m. on August 21, 2014 at the mortgaged premises, being known as 615 Laurel Street, Lee, Massachusetts, all and singular the premises described in said Mortgage (the "Premises"),

To wit:

"The land with the buildings thereon situate in Lee, in the County of Berkshire and Commonwealth of Massachusetts, bounded and described as follows: Beginning at a point in the westerly side of Massachusetts State Highway running between Lee and Lenox, and known as Route #20, said point being in a course South 8° 08' 30" East and 123.40 feet from a Massachusetts Highway bound and North 8° 06' 30" West and 98.49 feet from another Massachusetts Highway bound; thence South 8° 06' 30" East 98.49 feet to a Massachusetts Highway bound; thence South 24° 49' 30" East along the westerly line of said State Highway 154.04 feet to a point; thence by a curve to the right the radius of which is 142.01 feet, to a point, said point being on a course South 11° 36' East and 65.33 feet from the last described point; thence South 1° 47' 15" West 92.02 feet to a point; thence North 83° 02' West 147.59 feet to the center of a 22" diameter pine tree, blazed; thence the same course to the high water line of Laurel Lake, so called; thence northerly, westerly and northerly along said high water line of said Laurel Lake to a point, said point being on a course North 71° 22' west from an iron rod at the southwesterly corner of a piece of land sold by Arthur F. David and Ettrude Davis to Cranwell Preparatory School by deed dated May 2, 1947, and recorded with Berkshire Middle District Registry of Deeds in Book 537, Page 114, and known as Parcel #2; thence South 71° 22' East to said iron rod; thence South 71° 22' East 32.93 feet to an iron rod; thence North 78° 33' East along the southerly line of said school property 71.44 feet to an iron bolt; thence North 18° 35' East 11.55 feet to an iron pin; thence South 67° 42' East 24.70 feet to an iron pipe; thence North 14° 30' East 18.38 feet to an iron pipe and a southerly line of Parcel #1; thence South 69° 57' East 105.85 feet to the place of beginning.

Subject to a right of way ten (10) feet wide as described in the deed to Cranwell Preparatory School mentioned above, and lying south of, and adjacent to, the last described line.

Also conveying all of my right, title and interest in and to so much of the land between the high and low water marks of said Laurel Lake as lies adjacent to the granted premises.

The above described parcel is designated as Parcel #3 on a Map of "Property of Arthur F. Davis at Laurel Lake, Lee, Mass., April - 1947 - Scale 1" = 40', Willard O. Pease, Surveyor, revised October 1947," which map, as revised is filed with said Registry of Deeds in Drawer 191.

This conveyance is made subject to the rights contained in deed from Arthur F. Davis and Ettrude Davis to Cranwell Preparatory School relating to overhead electric light wires and water pipe lines.

This conveyance is also made subject to an easement granted to Western Massachusetts Electric Company and New England Telephone and Telegraph Company and recorded with said Registry in Book 541, Page 284, which instrument was executed on April 21, 1947.

Arthur F. David and Ettrude Davis, reserve for themselves, their heirs and assigns, the right to enter upon the granted premises to connect onto the pipeline, to lay a pipeline to the premises of Arthur F. Davis and Ettrude Davis and to repair, maintain and use the water pipe line and to turn on and shut off the water in said pipe line, and the grantees covenant that they will not, in any way, interfere with the flow of water through the pipe line on their premises.

Said premises are conveyed subject to an Easement granted to the Inhabitants of the Town of Lenox, recorded in said Registry in Book 1303, Page 899, on June 18, 1990.

Excepting from the above described property 0.110 acre taken by the Town of Lee for sewer by and Order of Taking dated May 4, 1987, and recorded on July 15, 1987, in Book 1200, Page 965&c, being Parcel 4 as shown on plan in Book of Plans 0, Page 174.

Subject to an easement agreement between BJS Fusco, Inc. And Paul and Ann Bruzzi dated November 18, 2002 and recorded November 20, 2002 in said Registry of Deeds in Book 2373, Page 6 for the sole purpose of clearing brush and grading.

Being the same premises conveyed to the Mortgagor herein by deed of Bernard Morris, which deed was recorded April 10, 1996 in Berkshire Middle District Registry of Deeds in Book 1511, Page 40."

The Premises will be sold subject to and with the benefit of all rights, rights of way, restrictions, easements, covenants, liens or claims in the nature of liens, improvements, outstanding tax titles, rights of tenants and parties in possession, unpaid taxes, municipal liens and other public taxes, assessments or liens and existing encumbrances having priority over the Mortgage, if any.

TERMS OF SALE: A deposit of Twenty-Five Thousand Dollars (\$25,000) will be required to be paid in cash or by certified or bank check by the successful bidder at the time and place of the sale. An additional deposit amount will be required to be paid by certified or bank check by the successful bidder within five (5) business days from the date of the sale in an amount that increases the total deposit to not less than ten percent (10%) of the successful bid amount. The balance of the successful bid amount is to be paid by certified or bank check within thirty (30) days from the date of the sale, and the deed for the Premises shall be delivered contemporaneously with such payment.

The Mortgage Holder reserves the right to postpone or adjourn this sale to a later time or date by public proclamation at the time and date appointed for the sale and to further postpone or adjourn any postponed or adjourned sale by public proclamation at the time and date appointed for the

postponed or adjourned sale.

The successful bidder at the sale will be required to sign a Memorandum of Sale containing the above terms, and other announced terms, at the sale.

The description for the Premises contained in the Mortgage shall control in the event of a typographical error in this notice.

Other terms to be announced at the sale.

TD BANK, N.A.
Present Holder of said Mortgage

By: 

Its Attorney

John W. Davis, Esq.

Cooley, Shrair P.C.

1380 Main Street, 5th Floor

Springfield, MA 01103

ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions shall apply to the sale of the premises as described in the sale notice of TD Bank, N.A. (the "Mortgage Holder") that has just been read to you:

1. The successful bidder will be required to execute in duplicate a Memorandum of Sale upon acceptance of the bid. Copies of the Memorandum of Sale are here for anyone to inspect prior to the bidding.
2. The premises will be sold to the highest bidder who will be required to make the required deposit prior to signing the Memorandum of Sale.
3. If the successful bidder fails to pay the required deposit and sign the Memorandum of Sale and any other required document or if, after paying the deposit and signing the required documents, fails to perform its obligations thereunder, any deposit made, including any additional deposit made after today, shall be forfeited to the use of the Mortgage Holder. Such forfeiture shall not release the successful bidder from any of its obligations. The Mortgage Holder also reserves the right to convey the premises to the second highest bidder, at its last highest bid, under the same terms and conditions as are being offered at today's auction, and without further notice by publication or otherwise. Such second highest bidder will have five (5) days after notification by the Mortgage Holder to make the required deposit and sign the Memorandum of Sale and any other required documents.
4. No items of personal property are included in this real estate sale, and the premises are being sold in "AS IS" condition, subject to all known and unknown defects, and subject to all applicable laws.
5. The premises may be subject to federal and state laws regarding lead-based paint. A standard information package issued by the Department of Public Health, including a form notice certificate, will be attached to the Memorandum of Sale. The successful bidder, prior to signing the Memorandum of Sale, will be required to sign the notice certificate as prepared by

the Mortgage Holder. Copies of such notice certificate and the information package are here for anyone to inspect prior to the bidding.

6. Except for the Mortgage Holder's representations contained in the lead paint notice certificate referred to above, no representations or warranties of any kind whatsoever are made by or on behalf of the Mortgage Holder with respect the premises, including, without limitation, any warranty or representation as to (a) condition, construction, or fitness for habitation, (b) the presence or absence of asbestos, urea formaldehyde, lead paint, radon gas, oil or other hazardous materials, or aboveground or underground storage tanks, (c) compliance or non-compliance with any law, including, without limitation, any federal, state or local law relating to environmental, zoning, building or occupancy matters, or (d) zoning, state of title, utilities, tenants or occupants, or other matters.

7. The successful bidder shall be responsible for complying with all laws applicable to any on site sewage disposal system, including, without limitation, Title V of the State Environmental Code, and is specifically hereby notified of, and shall be responsible for complying with, the inspection and upgrade requirements contained in Sections 15.300 through 15.305 of Volume 310 of the Code of Massachusetts Regulations, if applicable.

8. A municipal lien certificate has been obtained from the tax collector's office, and copies are available for inspection prior to the bidding. Based on the certificate, the following amounts appear due and owing to the Town of Lee with respect to the premises:

Real estate taxes, interest and other charges for fiscal year 2014, calculated through August 21, 2014	\$14,078.74
Past due water and sewer charges due August 21, 2014	\$ 220.01
Unpaid personal property taxes calculated through August 21, 2014	\$ 64.62
Total	\$14,363.37

No representations or warranties are made by or on behalf of the Mortgage Holder as to the accuracy, completeness or usefulness of the foregoing or as to the extent to which such amounts constitute a lien against the premises. All municipal taxes and other municipal charges, together with all interest, fees and costs relating thereto through the date of payment, shall be the responsibility of the successful bidder.

9. The Mortgage Holder, or its affiliate, may bid at this sale, and if either is the successful bidder, neither shall be required to pay any deposit. The Mortgage Holder may at any time, and from time-to-time, even after the commencement of bidding, adjourn this sale to a later time or date by public proclamation.

10. All information as shown in the Auctioneer's circulars or published advertisements for this sale has been compiled for the convenience and assistance of the successful bidder, and while the information is assumed to be reasonably correct, it is not guaranteed or warranted by the Auctioneer or the Mortgage Holder or any of their representatives.

11. From and after this date, the successful bidder shall have the sole risk of loss and the Mortgage Holder shall have no responsibility for maintaining insurance on the premises. In the event the premises are hereafter damaged by fire or other casualty, the successful bidder shall remain obligated to consummate the sale without any reduction in the purchase price.

12. In the event the Mortgage Holder cannot convey title to the premises as stipulated, the deposit, including any additional deposit thereafter made, shall be refunded and all rights under the Memorandum of Sale shall cease and the successful bidder shall have no recourse against the Mortgage Holder or its employees, agents or representatives, whether at law or in equity. For title purposes, the Mortgage Holder shall provide for the recording of a pre-sale and post-sale affidavit in connection with the delivery of the foreclosure deed for this sale. Copies of the pre-sale affidavit and the form post-sale affidavit are here for anyone to inspect prior to the bidding.

13. The premises will be conveyed by the usual statutory form foreclosure deed under the statutory power of sale, such deed to be delivered contemporaneously with the Mortgage Holder's timely receipt of full payment pursuant to the Memorandum of Sale. No adjustments of

any kind shall be made to the purchase price. The successful bidder will be responsible for its own closing costs and all Massachusetts document tax stamps and recording fees applicable to the purchase of the premises. The acceptance of the Mortgage Holder's foreclosure deed by the successful bidder, or any successor in interest, shall be deemed to be a full performance and discharge of all obligations of the Mortgage Holder to the successful bidder, and any successor in interest, in connection with this sale.

14. The successful bidder will be required to sign this document when signing the Memorandum of Sale and, by doing so, the successful bidder will be acknowledging that the successful bidder agrees to the foregoing terms and conditions.

Successful Bidder's signature

OFFICE OF THE COLLECTOR OF TAXES

Cooley Shrair
1380 Main Street
Springfield, MA 01103

August 7, 2014

I certify from available information that all taxes, assessments and charges now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on August 4, 2014 are listed below.

DESCRIPTION OF PROPERTY

ASSESSED OWNER: THE BJK FUSCO, INC.
LOCATION OF PROPERTY: 615 Laurel St., Lee, MA-- Assessors Map 7. Lot 11
PARCEL IDENTIFICATION: Berkshire Middle District Registry of Deeds, Book 1511, Page 40
LAND AREA: 2.00 acres
VALUATION: FY2014 \$917,700

FISCAL YEAR	2014 Real Estate	2013 Real Estate	2012 Real Estate
TAX Billed semiannually			
Preliminary			
Actual	\$12,985.46	\$16,221.82	15,738.27
DISTRICT TAX			
Preliminary			
Actual			
BETTERMENTS/SPECIAL ASSESSMENTS			
Committed Interest			
UTILITY LIENS			
Water			
Sewer			
Electric			
Committed Interest			
Collection Charges			
OTHER LIENS			
Committed Interest			
Collection Charges	\$ 5.00		
TOTAL BILLED	\$ 12,990.46	\$16,221.82	\$15,738.27
Payments			
Abatements/Exemptions			
Charges and Fees			
Interest to <u>8/6/2014</u>	\$ 1,018.56		
<u>\$4.98</u> per diem			
BALANCE DUE	8/6/14 \$14,009.02	\$0	\$0

*PRELIMINARY TAXES generally represent no more than 50% of prior year's tax.
UNPAID BETTERMENTS/SPECIAL ASSESSMENTS NOT YET ADDED TO TAX: Interest from _____ to be added.
IMPROVEMENTS VOTED FOR WHICH THERE WILL PROBABLY BE BETTERMENTS/SPECIAL ASSESSMENTS:
UNPAID UTILITY CHARGES: water & sewer \$220.01, due 8/21/14; billed quarterly
OTHER UNPAID CHARGES: Personal Property Tax \$64.34 as of 8/6/14; 2¢ per diem

This property is in tax title. Contact the Treasurer for outstanding amounts.

All of the amounts listed above are to be paid to the Collector.
I have no knowledge of any other outstanding amount that constitutes a lien.


COLLECTOR OF TAXES
Karen Fink, Asst. Collector