

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

W133 OWNER LLC,

Case No.: 20-42637 (NHL)

Debtor.

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**ORDER: (A) AUTHORIZING AND SCHEDULING A PUBLIC AUCTION SALE OF THE DEBTOR’S REAL PROPERTY; (B) APPROVING TERMS AND CONDITIONS OF SALE TO GOVERN THE PUBLIC AUCTION SALE OF THE DEBTOR’S REAL PROPERTY; (C) APPROVING THE FORM AND MANNER OF NOTICE OF THE PUBLIC AUCTION SALE OF THE DEBTOR’S REAL PROPERTY; (D) SCHEDULING A HEARING TO CONFIRM THE RESULTS OF THE PUBLIC AUCTION SALE; AND (E) WAIVING THE 14-DAY STAY PERIOD**

Upon that portion of the motion (“Procedures Motion”)<sup>1</sup> of Lori Lapin Jones, Esq., solely in her capacity as the Chapter 11 Trustee (“Trustee”) of W133 Owner LLC (“Debtor”), seeking entry of an Order: (a) authorizing and scheduling a virtual public auction sale of the Debtor’s real property and improvements located at 308-310 West 133rd Street, New York, New York 10030 (“Property”) for July 15, 2021 at 11:00 a.m. (Eastern) (“363 Sale”); (b) approving the proposed Terms and Conditions of Sale to govern the public auction sale of the Debtor’s real property; (c) approving the form and manner of notice of the 363 Sale; (d) scheduling a hearing to confirm the results of the 363 Sale; and (e) waiving the 14-day stay period; and upon the Order scheduling a hearing on shortened notice of the Procedures Motion; and upon the hearing conducted on May 27, 2021 (“Hearing”), the transcript of which is incorporated by reference; and Bruce Weiner, Esq. (Counsel to Debtor), Jeremy Sussman, Esq. (Office of the United States Trustee), Christopher A. Lynch, Esq. (Counsel to Harlem 133 Lender, LLC), Joseph Tusso, Esq. (Counsel to Harlem 133

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<sup>1</sup> Unless otherwise defined herein, capitalized terms shall have the same meanings ascribed to them in the Procedures Motion.

Lender, LLC), Lori Lapin Jones, Esq. (Chapter 11 Trustee), Holly Holecek, Esq. (Counsel to Lori Lapin Jones), and Gabriella Cacuci, Esq. (Counsel to City of New York) having appeared at the Hearing; and upon the record of the Hearing; and no objections having been filed to the Procedures Motion; and after due deliberation and good cause appearing therefor, it is hereby **FOUND AND DETERMINED THAT**.<sup>2</sup>

A. This Court has jurisdiction over the Procedures Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Procedures Motion and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Good and sufficient notice of the relief sought in the Procedures Motion has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief requested in the Procedures Motion has been afforded to interested persons and entities, including: (i) the Debtor, through counsel; (ii) Harlem 133 Lender, LLC, through counsel; (iii) the City of New York, through counsel; (iv) Levi Balkany; (v) the United States Trustee (Eastern District of New York); (vi) all parties in interest who have requested notice pursuant to Bankruptcy Rule 2002; (vii) all known creditors of the Debtor; and (viii) known parties who have asserted a lien or interest in the Property (collectively, “Notice Parties”).

C. The proposed Notice of Sale is good, appropriate, adequate, and sufficient, and service on the Notice Parties is reasonably calculated to provide all interested parties timely and proper notice of the 363 Sale and no other or further notice of the 363 Sale is required.

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<sup>2</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, when appropriate. See FED. R. BANKR. P. 7052.

D. The Trustee has articulated good and sufficient reasons for this Court to grant the relief requested in the Procedures Motion, including this Court's approval of the Terms and Conditions of Sale and the form and manner of service of the Notice of Sale.

E. The Trustee has articulated good and sufficient reasons for, and the best interests of the Debtor's estate will be served by, this Court scheduling a Sale Approval Hearing to consider whether to grant the remainder of the relief requested in the Procedures Motion, including confirmation of the results of the 363 Sale and the sale of the Property free and clear of any and all interests including, but not limited to, liens, claims, encumbrances, interests, judgments and/or mortgages, or adverse claims to title, of whatever kind or nature (collectively, "Interests").

**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Procedures Motion is approved.
2. The Terms and Conditions of Sale, substantially in the form annexed to the Procedures Motion as Exhibit B, are hereby approved.
3. The 363 Sale of the Property will be conducted virtually on July 15, 2021 at 11:00 a.m. (Eastern), or such other later date or time as the Trustee deems appropriate.
4. Following the 363 Sale, the Trustee may submit an affirmation to confirm the results of the 363 Sale of the Property.
5. The Trustee is authorized to take any and all actions necessary or appropriate to implement the 363 Sale.
6. All objections to entry of this Order or to the relief provided herein and requested in the Procedures Motion that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled in their entirety.

### **SALE APPROVAL HEARING**

7. The Sale Approval Hearing shall be held before this Court on **July 20, 2021 at 10:00 a.m.** The Sale Approval Hearing will be conducted telephonically using the instructions on the Court's website, which can be found at: <https://www.nyeb.uscourts.gov/content/judge-nancy-hershey-lord>.

8. The Sale Approval Hearing may be adjourned by the Trustee by filing a notice with this Court and serving such notice on the Notice Parties.

### **NOTICE**

9. The Notice of Sale, substantially in the form annexed to the Procedures Motion as Exhibit C, is hereby approved.

10. The Trustee shall cause notice of the 363 Sale to be published at least once in an appropriate publication pursuant to Bankruptcy Rule 2002(1).

11. The notice as set forth in the preceding paragraphs shall provide good and sufficient notice of the 363 Sale and the Sale Approval Hearing and no other or further notice of the 363 Sale or the Sale Approval Hearing shall be necessary or required.

### **ADDITIONAL PROVISIONS**

12. Notwithstanding Bankruptcy Rule 6004(h), this Order shall not be stayed for fourteen (14) days after the entry hereof and shall be effective and enforceable immediately upon entry hereof.

13. The Trustee is authorized and empowered to take such steps, incur and pay such costs and expenses, and do such things as may be reasonably necessary to fulfill the requirements established by this Order.

14. This Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Order.

**Dated: May 28, 2021**  
**Brooklyn, New York**



A handwritten signature in black ink that reads "Nancy Hershey Lord".

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**Nancy Hershey Lord**  
**United States Bankruptcy Judge**