

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In the Matter of:

**STEPHEN EDWARD DAILEY
KAREN DENISE DAILEY
AKA KAREN CHAMBLISS**

DEBTOR.

Inst # 1994-31201

}
10/13/1994-31201 CASE NO. 94-03048-RCF-7
01:31 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
009 HCD 28.50

**ORDER DIRECTING SERVICE AND NOTICE OF MOTION FOR AUTHORITY
TO SELL PROPERTY OF THE ESTATE BY PRIVATE SALE FREE AND CLEAR
OF ALL LIENS AND OTHER INTEREST; AND SETTING DATE, TIME
AND PLACE OF HEARING AND TIME WITHIN WHICH ANSWERS
AND OBJECTIONS MAY BE FILED AND SERVED**

The Trustee has filed a motion for authority to sell property of the estate other than in the ordinary course of business by private sale free and clear of liens and other interests. It presently appears that it will not be necessary to determine the validity, priority or extent of such liens to the property proposed for sale by adversary proceeding under Bankruptcy Rule 7001(2).

1. The Trustee or his attorney is directed to serve copy of said motion and of this Order on each of the entities named or identified in the motion as having liens on or interests in the property proposed for sale. Such service shall be made and certified to the Clerk under and in accordance with Bankruptcy Rule 7004. Each of the entities so served is **ORDERED** to file an answer to the Trustee's motion on or before **September 21, 1994**, and to serve a copy on the Trustee or his attorney. If any such party fails to answer, the Court may authorize the Trustee to proceed with the proposed sale.

2. The Clerk is directed to give and certify notice by mail to the Debtor's attorney, the Trustee, Trustee's attorney, all parties requesting notice, and all creditors and indenture trustees, as required by Bankruptcy Rule 2002(a)(2), by mailing copies of the motion and this Order to the persons and entities there required.

3. Pursuant to Bankruptcy Rule 6004(b), written objections to the proposed sale, in order to be considered, shall be filed with the Clerk and Served on the Trustee or his attorney on or before **September 21, 1994**. The address of the Clerk's office where objections must be filed is:

Clerk, U. S. Bankruptcy Court
Robert S. Vance Federal Building
1800 - 5th Avenue North - Room 120
Birmingham, Alabama 35203

The name and address of the Trustee or his attorney upon whom copies of objections must be served is:

Max C. Pope
P. O. Box 370991
Birmingham, AL 35237

Any such objection must be advocated by the objecting party in person or through an attorney at the hearing scheduled in this matter. The failure to file, serve and advocate an objection to the proposed sale in the manner here required shall constitute a waiver of objection.

4. The Trustee's motion will be heard in **Courtroom Number 1 of the Robert S. Vance Federal Building, 1800 5th Avenue North, Birmingham, Alabama, on September 26, 1994, at 1:30 p.m.** Written objections will be heard at that time.

IT IS SO ORDERED this the 31st day of August, 1994.



CLIFFORD FULFORD
United States Bankruptcy Judge

xc: Debtor(s)
S. Phillip Bahakel, Attorney for Debtor(s)
Max C. Pope, Trustee
All Scheduled Creditors And/Or Their Attorneys Filing Claims
Bankruptcy Administrator
Courtroom Deputy

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In Re:

STEPHEN E. DAILEY and
KAREN D. DAILEY

Debtor(s).

Bankruptcy Case No. 94-03048-RCF-7

(Chapter 7 Case)

FILED

AUG 25 1994

Clerk, U.S. Bankruptcy Court
Northern District of Alabama

NOTICE OF INTENT TO SELL AND
MOTION TO SELL FREE AND CLEAR OF
LIENS, INTEREST, OR OTHER ENCUMBRANCES

Comes now the Trustee, Max C. Pope, by and through his attorney, and gives notice pursuant to Federal Bankruptcy Rules of Procedure 2002 and 6004 of intent to sell the property described below free and clear of certain liens, interests, and/or other encumbrances pursuant to Title 11 United States Code Section 363(f) as described below, and moves this Court for an order authorizing the Trustee to sell said property and as grounds for said motion states the following:

1. Max C. Pope is duly appointed Trustee in the above-styled case.

2. The Trustee proposes to sell a parcel of real property as described in Exhibit "A" of Exhibit "1" both are hereby incorporated by reference and a mobile home situated thereon hereinafter (collectively referred to as "property").

3. The Trustee proposes to sell, by private sale, the property for a total price of Fifty-Five Thousand and no/100 Dollars (\$55,000.00) to Connie Mack Smith and Carolyn J. Smith under the terms and conditions as set out in Exhibit "1". The sale shall take place ten (10) days after the Order approving such sale is entered by the Court.

4. The real property is subject to two (2) mortgages. The first mortgage is to Hoyt E. Henderson and wife, A. Lavada

Henderson in the approximate amount of Twenty-Eight Thousand and no/100 Dollars (\$28,000.00). The second mortgage is to Charles G. Kessler in the approximate amount of One Thousand and no/100 Dollars (\$1,000.00).

5. The property is subject to the following liens:

<u>Creditor</u>	<u>Amount</u>
a. Oxford Finance Companies (mobile home)	\$16,000.00
b. Associates Financial Services of Florida, Inc. (mobile home)	\$ 2,709.07
c. Associates Financial Services of Alabama, Inc.	\$ 3,878.16
d. Brookwood Medical Center	\$ 2,287.05
e. Brookwood Medical Center	\$ 7,645.01
f. Brookwood Medical Center	\$ 9,863.73
g. Shelby County Health Care	\$ 815.98
h. Norwood Clinic, Inc.	\$ 693.00
i. McRae's, Inc.	\$ 517.35
j. Parisian Services, Inc.	\$ 876.74
TOTAL	\$45,286.09

6. The Debtors have agreed to claim only Six Thousand and no/100 Dollars (\$6,000.00) as their homestead exemption.

7. The first two mortgages as described above will be paid in full by the proceeds of this sale. Their mortgages shall attach to the proceeds of this sale.

8. The judgment creditors and the Debtors have agreed to accept Twenty Thousand Dollars and no/100 Dollars (\$20,000.00) from the proceeds of this sale to be shared pro rata as consideration for releasing their liens or interests in the property as set out below:

a. Oxford Finance Companies	\$ 9,473.80
b. Associates Financial Services of Florida, Inc.	\$ 1,604.08
c. Associates Financial Services of Alabama, Inc.	\$ 2,296.31
d. Brookwood Medical Center	\$ 1,354.19
e. Brookwood Medical Center (see below/paragraph no. 9)	\$ 0.00

f.	Brookwood Medical Center (see below/paragraph no. 9)	\$ 0.00
g.	Shelby County Health Care	\$ 483.15
h.	Norwood Clinic, Inc.	\$ 410.33
i.	McRae's, Inc.	\$ 306.33
j.	Parisian Services, Inc.	\$ 519.13
k.	Stephen and Karen Dailey (Debtors)	\$ <u>3,552.68</u>

TOTAL	\$20,000.00
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9. Brookwood Medical Center through their attorney of record has agreed that the two (2) judgment liens totalling \$17,508.74 (listed in paragraph number 5(e) and (f)) appear to be preferences filed within the ninety (90) days prior to the Debtors filing this bankruptcy and not enforceable liens against the Trustee.

10. This should leave approximately Six Thousand and no/100 Dollars (\$6,000.00) for the bankruptcy estate.

11. IF YOU CLAIM A LIEN ON OR INTEREST IN, ANY OF THE PROPERTY AND IT IS NOT SET FORTH HEREIN ABOVE YOU SHOULD IMMEDIATELY MAKE SUCH LIEN OR INTEREST KNOWN TO THE TRUSTEE AND THE COURT. THIS PROPOSED SALE MAY EFFECT YOUR RIGHTS UNDER 11 U.S.C. SECTION 363.

12. There is equity in the property to be sold in this sale based on the liens and interest set forth above and the purchase price.

WHEREFORE, upon the above stated premises the Trustee moves this Court to:

A. Pursuant to Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure, Order the date, time and place of the hearing on this Notice and Motion to sell property of the estate and the time within which objections to said Notice and Motion shall be filed and served upon the Trustee;

B. At such hearing, approve and confirm the Trustee's

proposed sale and authorize the Trustee to sell and convey the estate's interest in the Property to the Purchaser by private sale, free and clear of liens and other interest on the terms and conditions as herein set forth or as the Court shall find just and proper;

C. Pursuant to Rule 6004(f)(2) of the Federal Rules of Bankruptcy Procedure, authorize the Trustee to execute any instruments necessary or ordered by the Court to effectuate the transfer of the Assets to the Purchaser;

D. Order that the liens and interests of the parties named herein to attach to the net proceeds and enter an order allowing the Trustee to pay the lienholders as set out above.

E. Order that if there is a dispute among the lienholders or Trustee on the Property as to the validity, amount, or priority of any such lien or claim, such sale is approved and confirmed on the basis requested, and the Trustee is directed to hold the net proceeds, subject to payment upon proper application for professional fees and other administrative expenses and to bring an adversary proceeding to resolve said disputes; and

F. Grant such further, additional or other relief as may be necessary to effectuate the sale of the assets.

DATED: This the 25th day of August, 1994.



Max C. Pope, Jr.
Attorney for Trustee
P. O. Box 370991
Birmingham, Alabama 35237
(205) 327-5566

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Notice of Intent to Sell and Motion to Sell Free and Clear of Liens, Interest, or other Encumbrances has this 25th day of August, 1994, been mailed via U.S. Mail, postage-prepaid to the following addresses:

Phillip S. Bahakel
2166 Hwy. 31 south
P. O. Box 88
Pelham, Alabama 35124

Bankruptcy Administrator
1800 5th Avenue North
Room 120
Birmingham, Alabama 35203

A. J. Beck, Attorney for
Brookwood Medical Center
Gordon, Silberman, Wiggins
& Childs
1400 SouthTrust Tower
420 20th Street North
Birmingham, Alabama 35203-3204

Attorney for Associates
Financial Services of Alabama,
Inc.
P. O. Box 2189
Montgomery, Alabama 36102-2189

Ramsey, Dismuke & Eggleston
Attorneys for Associates
Financial Services of Florida,
Inc.
P. O. Box 201207
Arlington, Texas 76006-2107
Attention: Linda Inderbrock

Ramsay, Dismuke & Eggleston
2005 East Lamar Boulevard
Suite 100
Arlington, Texas 76006-7301

Ms. Linda Burke
Oxford Financial Services
7300 Old York Road
Philadelphia, PA 19126-1884

Richard Breibart
Attorney for McRae's, Inc.
2700 Highway 280 South
Suite 155-E
Birmingham, Alabama 35223

Associates Financial Services
Co. of Florida, Inc.
P. O. Box 1280
Panama City, Florida 32402

Sirote Permutt
Attorneys for Shelby County
Health Care Authorities and
Norwood Clinic
2222 Arlington Avenue
P. O. Box 55727
Birmingham, Alabama 35255-5727

Najjar, Denaburg, P.C.
Attorneys for Parisian
Services, Inc.
2125 Morris Avenue
Birmingham, Alabama 35203

Corey B. Moore
Attorney for Hoyt E. Henderson
3058 Independence Drive
P. O. Box 530985
Birmingham, Alabama 35253



Max G. Pope, Jr.

The Undersigned Purchaser (s) Connie Mack Smith and Carolyn J. Smith hereby agrees to purchase and
The Undersigned Seller(s) Max C. Pope as Trustee hereby agrees to sell
the following described real estate, together with all improvements, shrubbery, plantings, fixtures and appurtenances, situated in the City of
Sterrett County of Shelby Alabama, on the terms stated below:

1. THE PURCHASE PRICE: shall be \$ 55,000.00 payable as follows:

Earnest Money, receipt of which is hereby acknowledged by the Agent.....	\$	500.00
Cash on closing this sale.....	\$	54,500.00

Purchasers will pay property taxes.

Ex:

Hoyt E. Henderson & Lavada Henderson

to:

Steve E. Dailey & Karen D. Dailey

EXHIBIT "A"

Begin at the NE corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of section 30, township 18 S, Range 2 East, thence run on an azimuth of 246 degrees 40 mins. 500.0 feet; thence turn an azimuth of 214 degrees 57 mins. 45.44 feet to the point of intersection of the SW R.O.W. of central of Georgia Railroad and the Southerly boundary of Pumpkin Swamp Road, said point being the point of beginning, thence turn an azimuth of 245 degrees 43 mins. along the said Southerly boundary of Pumpkin Swamp Road 321.4 feet; thence turn an azimuth of 241 degrees 03mins. 195.8 feet along said boundary; thence turn an azimuth of 235 degrees 22 mins. along said boundary 83.7 feet to the North line of A. B. Turner Property; thence turn an azimuth of 88 degrees 58 mins. along the said North line 181.67 feet to the N.E. corner of A.B. Turner Property; thence turn an azimuth of 178 degrees 37mins. along the East line of A. B. Turner Property 564.75 feet to an existing iron pipe; thence turn an azimuth of 88 degrees 58 mins along the Northern boundary of an old road 572.0 feet to the SW corner of S. M. Goodwin Property; thence turn an azimuth of 19 degrees 42 mins. along the Westerly line of said S. M. Goodwin Property 496.7 feet to the South Westerly R.O.W. of Central of Georgia R.R.; thence turn an azimuth of 311 degrees 43 mins. along the said South Westerly R.O.W. of said Central of Georgia R.R. 539.8 feet to the point of beginning, said Parcel contains 11.29 acres more or less.

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