

**IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**IN RE:**

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**CHAPTER 13**

**MARTIN GARCIA  
JUDY STENGEL**

**CASE NO. 12-52770G**

**DEBTORS**

**MOTION FOR REDEMPTION OF THE ESTATE’S INTEREST  
IN BEST LANDSCAPES LLC BY LAURIE CASIAS**

COMES NOW, Mary K. Viegelahn, Chapter 13 Trustee in the above captioned proceeding and files this, Motion for Redemption of the Estate’s Interest in Best Landscapes LLC (the “Motion”). Trustee requests the Court authorize the redemption of the Estate’s 50% interest in Best Landscapes, LLC to the remaining 50% owner of Best Landscapes LLC, Laurie Casias. In support thereof, the Trustee states the following:

1. Debtors filed a voluntary petition for bankruptcy relief under Chapter 13 of the Bankruptcy Code on September 4, 2012.
2. Debtor’s Schedule B lists property described as “50% Best Landscapes LLC” with a value of Debtor’s interest in said property as being \$0.00. On Schedule C, Debtors did not claim an exemption in the property described herein; therefore, the property is a non exempt asset and is property of the Estate.
3. On January 14, 2013, the Trustee filed an Objection to Confirmation (Docket #23) of the Debtors’ plan including an objection to the Debtors’ valuation of the 50% interest in Best Landscapes LLC. The Court held a confirmation hearing on April 28, 2014 and over the Trustee’s objection, ruled the value of the Debtor’s interest in Best Landscapes LLC was \$0.00.
4. Debtors’ Plan filed September 4, 2012 was confirmed on June 5, 2014 by order of the Court.
5. Six months following the confirmation hearing, on October 20, 2014, the Debtors’ filed their Motion to Sell Property (Docket #91) stating the Debtor wished to sell the 50%

- ownership interest in Best Landscapes LLC to Laurie Casias, the owner of the remaining 50% interest in Best Landscapes LLC) for a sum of \$44,625.00.
6. The terms of the redemption is for a cash sum of \$44,625.00 and would include an initial payment by Ms. Casias in the amount of \$20,625.00 to be paid immediately upon the entry of the Order approving this motion; and the balance due of \$20,000.00 to be paid out over four (4) months in equal payments of \$5,000.00 beginning January 10, 2015.
  7. In the Debtors' Motion to Sell Property, the Debtors wished to retain all proceeds of the sale. The Trustee filed her Objection to the Debtors' Motion to Sell Property (Docket #95) on November 10, 2014 asserting the sales proceeds constitute a post-petition non exempt asset pursuant to 11 U.S.C. § 1306 and as such, the funds should be turned over to the Trustee for the benefit of the estate and distribution to the unsecured creditors.
  8. A hearing was held on the Debtors' Motion to Sell Property on November 18, 2014.
  9. Following the Court's ruling on November 18, 2014 approving the Debtors' Motion to Sell Property but finding that proceeds should be paid to the Trustee as a non exempt asset of the Estate, rather than retained by the Debtors, The Debtors' orally withdrew their Motion to Sell Property.
  10. As stated in the Debtors' Motion to Sell Property, the Debtor and Ms. Casias are unable to cooperate and run a business together. Upon information and belief, the Trustee asserts the Debtor is no longer engaged in the daily operations of Best Landscapes LLC and offered to redeem the Estate's 50% interest in Best Landscapes LLC to Laurie Casias for \$65,763.00 pursuant to the terms of section 8.01 of the LLC Agreement (attached as Exhibit "A").
  11. The Debtor's original offer to Ms. Casias dated August 25, 2014 was in the amount of \$65,763.00 (attached as Exhibit "B"). Ms. Casias formally accepted the offer on August, 26, 2014, the next day (attached as Exhibit "C"). Pursuant to the terms of the letter of acceptance, the first payment due under execution of the agreement would be September 3, 2014 with the Debtor receiving his weekly salary through September 12, 2014.
  12. As section 8.01(d) of the LLC Agreement provides for payment of a membership interest in five (5) equal installments with interest over five (5) years, it is the understanding of the Trustee that the purchase price of \$44,625.00 stated in Debtors' Motion to Sell Property was reduced from the original offer of \$65,763.00 based upon shorter term of

payment to the Debtor and an offset of funds in the amount of \$4,375.00 representing funds acquired by the Debtor from the checking account of Best Landscapes LLC for alleged salary withholding.

13. As the Bankruptcy Estate is the current holder of 50% interest in Best Landscapes LLC, Laurie Casias desires to redeem the Estate's 50% interest in Best Landscapes LLC and continue to operate the business. The proposed Redemption Agreement is attached as Exhibit "D."
14. Laurie Casias has offered to redeem the Estate's 50% interest in Best Landscapes LLC for the sum of 44,625.00 with the same terms set forth in the Debtors' Motion to Sell Property and as set forth in ¶6 of this Motion. In addition, a Promissory Note will be executed and the proposed Promissory Note is attached as Exhibit "E."
15. The Parties' obligation to execute the transaction contemplated in this Motion is contingent upon the Court's entry of an Order approving the redemption.
16. As this is a non exempt asset the proceeds from the redemption shall be disbursed to general unsecured creditors as such proceeds are received.

**WHEREFORE PREMISES CONSIDERED**, the Trustee respectfully requests:

- A. The Court grants the Trustee's Motion.
- B. Estate's interest in Best Landscapes LLC shall be redeemed for the total sum of \$44,625.00 with a lump sum of \$20,625.00 to be paid at closing with \$20,000.00 payable in monthly installments of \$5,000.00 beginning in January 2015 through April 2015.
- C. The proceeds shall be disbursed to general unsecured creditors as the proceeds are received.
- D. And for such other and further relief in equity and/or law as this Court may deem proper.

Respectfully Submitted,

December 2, 2014

/s/  
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