

STATE OF MAINE
PENOBSCOT, ss.

SUPERIOR COURT
Docket No. RE-2007-109

MERRILL MERCHANTS BANK,)
)
 Plaintiff)
)
 vs.)
)
 SCOTT D. YERXA and)
 STATE OF MAINE DEPARTMENT)
 OF HEALTH AND HUMAN SERVICES,)
)
 Defendants)

**** DISCLAIMER ****

Merrill Merchants Bank has provided the information contained in this bidder's prospectus to persons interested in bidding for the real property described herein. It believes the information contained herein to be accurate and complete. **However, neither Merrill Merchants Bank nor its agents, employees or attorneys, make any warranties of any kind as to the accuracy or completeness of the information contained herein.** Prospective bidders are urged to make such an independent investigation as to each of those matters to which an ordinary and prudent buyer would inquire.

Michael S. Haenn, Esq. ■ 88 Hammond Street ■ Bangor, Maine
04401 ■ Attorney for Mortgagee ■ Merrill Merchants Bank ■
www.haennlaw.com

TERMS AND CONDITIONS OF PUBLIC SALE

Merrill Merchants Bank vs. Scott D. Yerxa et al.

73 Somerset Street
Bangor, Maine

The following are the terms of the public sale of the property described in the mortgage deeds of Scott D. Yerxa to Merrill Merchants Bank ("Merrill") (a) dated December 3, 2002 and recorded in the Penobscot Registry of Deeds in Vol. 8482, Page 71, and (b) dated September 12, 2006 and recorded in the Penobscot Registry of Deeds in Vol. 10636, Page 52. The mortgage interests being foreclosed are also described in more detail in the Order and Judgment of Foreclosure dated November 29, 2007 and entered by the Superior Court for Penobscot County in the action docketed as *Merrill Merchants Bank v. Yerxa et al.*, Docket No. RE-2007-109.

Date/Place of Sale - June 11, 2008 commencing at 12:00 p.m. at the Law Office of Michael S. Haenn, 88 Hammond Street, Bangor, Maine.

Nature of Sale - Merrill is foreclosing the real estate mortgages described above and granted by Scott D. Yerxa. The public sale of the mortgaged property is pursuant to 14 M.R.S.A. § 6321 et seq. and the said judgment of foreclosure.

Terms of Sale - (a) All of those terms set forth in the Notice of Public Sale published in the *Bangor Daily News* on May 10, 17, and 24, 2008, including but not limited to the following: (i) a deposit to bid of \$10,000.00 in certified funds, payable to Merrill Merchants Bank; and (ii) the balance of the purchase price is due and payable within 30 days of the public sale. All deposit(s) to bid from the highest bidder are non-refundable.

(b) Merrill makes no warranties of any kind whatsoever regarding its title to the property; or the physical condition, location or value of the property; or compliance with any applicable federal, state or local law, ordinance and regulation, including zoning or land use ordinances. Bidders must satisfy themselves as to each of those matters to which an ordinary and prudent buyer would inquire.

(c) The property is sold subject to all outstanding tax liens and municipal and quasi-municipal encumbrances, whether or not of record in the Penobscot Registry of Deeds, as well as all real estate transfer taxes.

(d) No personal property is being sold with the real estate described, and bidders must satisfy themselves as to the legal character of specific property as real or personal in nature. Further, Merrill reserves the right, but not the obligation, to

itself and its assigns to remove any personal property from the property without liability of any kind to the buyer of the real estate for any loss, injury or damage sustained as a result of the storage or removal of said personal property.

(e) A record of bidding will be maintained by Merrill for its own use. All persons present at the public sale and wishing to submit a bid must register with the auctioneer and submit the requisite deposit in cash or certified funds prior to the commencement of bidding. In the event that there is a failure to close the sale with any person who executes a Purchase and Sale Agreement, Merrill reserves the right to either hold a new sale or to contact the next highest bidder and allow that party to purchase the real estate for the next highest bid. Merrill disclaims any responsibility for providing notice of any kind to any person subsequent to the public sale.

(f) Merrill reserves the right to refuse or accept any irregular bid; to hold periodic recesses in the sale process; to continue the sale from time to time without notice to any person; and to amend the terms of sale as it deems in the best interests of Merrill.

(g) The transfer of the property by Merrill will be by release deed in substantially the same form as that attached to the Purchase and Sale Agreement and distributed in the bidder's prospectus.

Purchase and Sale Agreement - the highest bidder for the property will be required to execute a Purchase and Sale Agreement with Merrill, and which must be executed immediately after the close of bidding.

ADDITIONAL TERMS AND CONDITIONS MAY BE ANNOUNCED BY THE AUCTIONEER ON THE DATE OF THE PUBLIC SALE AND ARE INCORPORATED HEREIN BY REFERENCE.

Dated: June 11, 2008

Michael S. Haenn, Esq.
88 Hammond Street
Bangor, Maine 04401
Attorney for
Merrill Merchants Bank
www.haennlaw.com

PURCHASE AND SALE AGREEMENT

AGREEMENT made as of this 11th day of June, 2008 by and between the following parties:

Seller: Merrill Merchants Bank, a Maine corporation with a place of business in Bangor, Maine ("Seller"); and

Buyer: _____
_____ ("Buyer").

1. **Purchase and Sale; Property.** Seller hereby agrees to sell, and Buyer hereby agrees to buy, a certain lot or parcel of land with any buildings thereon situated generally on 73 Somerset Street in Bangor, Maine, and more particularly described in the mortgage deeds of Scott D. Yerxa (a) dated December 3, 2002 and recorded in the Penobscot Registry of Deeds in Vol. 8482, Page 71, and (b) dated September 12, 2006 and recorded in said Registry of Deeds in Vol. 10636, Page 52 ("the Property").

2. **Basic Terms of Transfer.** Seller hereby agrees to transfer, and Buyer agrees to purchase, the Property on or before July 11, 2008 ("the Closing Deadline"). Seller will convey its interest in the Property subject to the following conditions and restrictions:

(a) conveyance of the Property at closing (on or before the Closing Deadline) will be by release deed from Seller to Buyer in substantially the same form as that annexed hereto. Unless otherwise indicated below, and if more than one Buyer executes this Agreement, the deed from Seller to Buyer will be a deed to Buyer as tenants in common.

Buyer's affirmative election as to the form of the deed of conveyance from Seller:

- joint tenancy
- tenancy in common

(b) the closing will take place at the Law Office of Michael S. Haenn, 88 Hammond Street, Bangor, Maine, or at such other place as may be agreed between the parties.

(c) Seller makes no representations of any kind or nature as to the physical condition or title to the Property, both of which are expressly and strictly sold on "AS IS, WHERE IS" basis.

(d) conveyance at closing will be subject to all outstanding property tax liens or other municipal or quasi-municipal encumbrances or assessments, whether or not of record in the Penobscot Registry of Deeds on the date of closing, and further subject to all real estate transfer taxes assessed by the State

of Maine, all of which are entirely the responsibility of Buyer.

(e) Buyer specifically and affirmatively waives the right to request any writ of possession from Seller and for the Property.

(f) conveyance is further subject to the terms and conditions of sale as announced at the public sale of the Property on June 11, 2008 or as set forth in the Terms and Conditions of Public Sale distributed by the auctioneer to registered bidders at the time of registration to bid.

3. **Purchase Price.** (a) Buyer hereby agrees to pay to Seller the sum of

_____ Dollars (\$_____)
for the Property as follows:

(i) Ten Thousand Dollars (\$10,000.00) at the time of the execution of this Agreement, all of which is non-refundable and the receipt thereof is hereby acknowledged by Seller; and

(ii) the balance (after such deposit) is due and payable at the time of closing in cash or by certified check.

(b) Should Buyer fail to tender the balance due at closing and on or before the Closing Deadline, all deposit(s) from Buyer shall be retained by Seller as liquidated damages but which shall not limit the right of Seller to enforce any other right or remedy against Buyer, including an action to compel specific performance.

4. **Risk of Loss.** The risk of loss or damage to the Property by fire or otherwise until closing and the delivery of a deed is assumed by Buyer.

5. **Personal Property.** Buyer recognizes that there are or may be items of personal property situated on or in the Property, and that Seller is not conveying any interest in such personal property to Buyer. Buyer agrees that Seller has made and will make no representations as to the legal character of specific property as real or personal in nature. Further, Seller reserves the right, but not the obligation, to itself and its designees to remove any personal property from the property without liability of any kind to Buyer for any loss, injury or damage sustained as a result of the storage or removal of such personal property.

6. **Broker.** Seller and Buyer agree that there is no real estate broker involved in this transaction, and that no one is due a commission in conjunction with the sale or purchase of the Property.

7. **Non-reliance; Construction.** Buyer acknowledges that Buyer has not relied upon any oral or written representations of any employee, agent, or attorney for Seller not expressly set forth in this Agreement as a basis for Buyer's decision to

execute this Agreement. In express recognition thereof, Buyer agrees that in the event of any ambiguity as to the meaning or intent of the terms or obligations set forth herein, or any documents executed in connection herewith, such ambiguous term or provision shall not be construed more favorably to one party than to another.

8. **Limitation on Buyer Damages.** Buyer agrees that in any dispute or action arising out of this Agreement, or the matters described herein, the damages to which Buyer may be due at any time and as against Seller for any reason shall be specifically limited to the amount of Buyer's deposit, repayable without interest, and that under no circumstances may such damages include any claim for punitive damages, lost profits or investment opportunities, or attorneys' fees.

9. **Waiver of Jury Trial, Arbitration.** (a) Buyer agrees that in the event of any dispute as between Buyer and Seller and relating to the subject matter of this Agreement, or the property hereby contemplated to be transferred by Seller to Buyer, such dispute shall (unless Seller shall have demanded arbitration as set forth in this paragraph) be tried before a single Justice of the Superior Court in Penobscot County sitting without a jury.

(b) Buyer further agrees that in any dispute or controversy with Seller as to the terms of this Agreement, or with respect to the matters described herein, and whether sounding in contract or tort, shall, at the election of Seller and at any time, be resolved by binding arbitration in accordance with the applicable provisions of the Maine Uniform Arbitration Act, at 14 M.R.S.A. § 5927 et seq. and as the same may be amended from time to time. Seller may further elect to submit less than all disputes or controversies as between Buyer and Seller to binding arbitration. Nothing herein shall be construed as limiting the rights or remedies of Seller pursuant to this Agreement or any document or agreement as between Buyer and Seller and at any time, whether or not Seller shall have previously demanded such arbitration.

10. **Assignment.** Buyer may assign its rights under this Agreement to any third party by a writing approved by Seller, but such assignment may not mitigate or modify Buyer's obligations and liability to Seller pursuant to the terms hereof. Any such assignment, in a form approved by and acceptable to counsel for Seller, must be executed and delivered by Buyer and the proposed assignee(s) to counsel for Seller at least seven (7) calendar days prior to the date of closing.

11. **Amendments.** This Agreement contains the entire agreement of the parties, and it may not be amended subsequent to the execution hereof except by a writing executed by each of the parties to this Agreement.

12. **Binding Nature.** This Agreement shall be binding upon

the respective heirs, successors, personal representatives and assigns of the parties hereto.

13. **Applicable Law.** This Agreement shall be enforced and construed in accordance with the laws of the State of Maine.

14. **TIME IS OF THE ESSENCE AND NOT A MERE RECITAL.** Should Buyer default in any obligation under this Agreement, Buyer agrees to indemnify and hold Seller harmless from any resulting or consequential loss, claim or damage of any kind whatsoever, including but not limited to any attorneys' fees incurred by Seller.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement in duplicate original as of the day and year first above written.

Witness:

MERRILL MERCHANTS BANK

By: _____
Lynne A. Spooner
Its Sr. Vice President

Buyer - SS#/EID

Buyer - SS#/EID

Disclaimer: Please read this Purchase and Sale Agreement carefully. Neither Seller nor its agents, employees or attorneys, make any warranties or representations of any kind to Buyer beyond those expressly set forth in this Agreement. Further, none of such persons offer any advice to you as to any aspect of the arrangement reflected by, or contemplated by, the foregoing.

Counsel for Seller: Michael S. Haenn, Esq., 88 Hammond Street,
Bangor, Maine 04401 ■ 207-990-4905 ■ www.haennlaw.com

RELEASE DEED

Merrill Merchants Bank, a Maine corporation with a place of business in Bangor, County of Penobscot and State of Maine, for consideration paid, releases to _____ **[Buyer]** _____, certain real property situated in Bangor, County of Penobscot and State of Maine, and more particularly bounded and described as follows:

A certain lot or parcel of land together with any improvements thereon, situated in Bangor, Penobscot County, Maine, more particularly described as follows, viz:

Beginning at an iron bolt driven into the ground on the southerly line of Somerset Street distant seventy and seventy-five hundredths (70.75) feet westerly of an iron bolt driven into the ground at a point where the westerly line of Essex Street intersects the southerly line of Somerset Street; thence southerly, parallel with said line of Essex Street about thirteen and ninety-six hundredths (13.96) feet to a point; thence westerly, parallel with the northerly side of the shed situate on the parcel of land deeded by Harry S. Wise to Ralph B. Farrar by deed dated February 11, 1924, recorded in Penobscot County Registry of Deeds, Volume 971, Page 148, and one-half ($\frac{1}{2}$) foot from said shed about one and six tenths (1.6) feet to a point; thence southerly, parallel with the westerly side of said shed and one-half ($\frac{1}{2}$) foot therefrom about nine and thirty-five hundredths (9.35) feet to a point; thence easterly, parallel with the southerly side of said shed and one-half ($\frac{1}{2}$) foot therefrom about one and six tenths (1.6) feet to a point; thence southerly, parallel with the westerly line of Essex Street about thirty-seven and twenty-six hundredths (37.26) feet to an iron bolt on the northerly line of a lot of land formerly owned or occupied by Rev. John McGaw Foster; thence westerly, on and along the last mentioned line, forty-four and nine hundredths (44.09) feet to an iron bolt driven into the ground on the easterly line of the Pine Street Methodist Church lot; thence northerly, on and along the easterly line of said Church lot, sixty and sixty-two hundredths (60.62) feet to the southerly line of Somerset Street; thence easterly on and along the southerly line of Somerset Street, forty-four and nine hundredths (44.09) feet to the bounds begun at.

Subject to all municipal liens and encumbrances, including but not limited to real property taxes, whether or not of record in the Penobscot Registry of Deeds. Further subject to all real estate transfer taxes.

For Grantor's source of title reference may be had to the mortgage deeds of Scott D. Yerxa (a) dated December 3, 2002 and recorded in the Penobscot Registry of Deeds in Vol. 8482, Page 71, and (b) dated September 12, 2006 and recorded in the Penobscot Registry of Deeds in Vol. 10636, Page 52. The Grantor foreclosed said mortgage deeds in an action commenced in the

Superior Court for Penobscot County in the action docketed as *Merrill Merchants Bank vs. Scott D. Yerxa et al.*, Docket No. RE-2007-109, and pursuant to an Order and Judgment of Foreclosure entered by the said Court. This deed is a conveyance of all right, title and interest of the Grantor and all parties to said action and in and to the above property pursuant to 14 M.R.S.A. § 6323.

For purposes of compliance with 14 M.R.S.A. § 6323(1):

Newspaper in which publication occurred: *Bangor Daily News*.

Dates of publication: May 10, 17, and 24, 2008.

Sale date: June 11, 2008. [If the public sale was continued from the date reflected in the notice of public sale as printed in such newspaper, such sale was continued in accordance with 14 M.R.S.A. § 6323(1)].

In witness whereof, Merrill Merchants Bank has caused this instrument to be executed by Lynne A. Spooner, Its Sr. Vice President duly authorized this _____ day of June, 2008.

Witness:

MERRILL MERCHANTS BANK

By: _____
Lynne A. Spooner
Sr. Vice President

State of Maine
Penobscot, ss.

June _____, 2008

Personally appeared the above-named Lynne A. Spooner, Sr. Vice President, and acknowledged the foregoing instrument by her signed to be her free act and deed in said capacity and the free act and deed of said corporation.

Before me,

Notary Public

NOTICE OF PUBLIC SALE
14 M.R.S.A. § 6323

Notice is hereby given that in accordance with an Order and Judgment of Foreclosure dated November 29, 2007 and entered by the Superior Court for Penobscot County in the action entitled *Merrill Merchants Bank vs. Scott D. Yerxa et al.*, Docket No. RE-2007-109, and wherein the Court adjudged a foreclosure of mortgage deeds (a) dated December 3, 2002 and recorded in the Penobscot Registry of Deeds in Vol. 8482, Page 71, and (b) dated September 12, 2006 and recorded in the Penobscot Registry of Deeds in Vol. 10636, Page 52, the period of redemption from said judgment having expired, a public sale will be conducted on June 11, 2008 commencing at 12:00 p.m. at the Law Office of Michael S. Haenn, 88 Hammond Street, Bangor, Maine, of the following property:

Property Description: Certain property situated generally at 73 Somerset Street, Bangor, Maine. Reference should be had to said mortgage deeds for a more detailed legal description of the property to be conveyed. Reference may also be had to Bangor Tax Map 48, Lot 194.

Terms of Sale: The property will be sold subject to all outstanding municipal assessments, whether or not of record in the Penobscot Registry of Deeds, as well as all real estate transfer taxes assessed on the transfer. The sale will be by public auction. The deposit to bid, non-refundable as to the highest bidder, is \$10,000.00 in certified funds. The deposit to bid should be made payable to Merrill Merchants Bank. The highest bidder will be required to execute a purchase and sale agreement with Merrill Merchants Bank at the time of the public sale. The balance of the purchase price will be due and payable within 30 days of the public sale. Conveyance of the property will be by release deed. All other terms will be announced at the public sale. A bid package is available at www.haennlaw.com.

Michael S. Haenn, Esq., Attorney for Merrill Merchants Bank, 88 Hammond Street, Bangor, Maine.