

STATE OF MAINE
LINCOLN, ss.

DISTRICT COURT
DISTRICT SIX
Location: Wiscasset
Docket No. WIS-RE-2009-80

THE BANK OF MAINE f/k/a)
SAVINGS BANK OF MAINE and)
GARDINER SAVINGS INSTITUTION,)
FSB,)
)
Plaintiff)
)
vs.)
)
LYNETTE N. NAYLOR f/k/a)
LYNETTE N. CREAMER,)
DAMARISCOTTA BANK AND TRUST)
COMPANY, THE FIRST, N.A., and)
SETH HAGAR d/b/a)
HAGAR ENTERPRISES, INC.,)
)
Defendants)

**** **DISCLAIMER** ****

The Bank of Maine and Keenan Auction Company have provided the information contained in this bid package to persons interested in bidding for the property described herein. Each believes the information contained herein to be accurate and complete. **However, neither The Bank of Maine nor Keenan Auction Company, nor their respective 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.

For further information regarding the sale please contact Keenan Auction Company, One Runway Road, South Portland, ME 04106 ■ 207-885-5100 ■ www.keenanauction.com

Michael S. Haenn, Esq., 88 Hammond Street, Bangor, ME 04401 ■ 207-990-4905 ■ www.haennlaw.com ■ Attorney for The Bank of Maine

TERMS AND CONDITIONS OF PUBLIC SALE

The Bank of Maine v. Lynette N. Naylor et al.

845 State Route 129
South Bristol, Maine

The following are the terms of the public sale of the property situated generally at 845 State Route 129 in South Bristol, Maine ("the Property"). The Property is also described as "First Parcel" in the mortgage deed of Lynette N. Naylor to Gardiner Savings Institution, FSB n/k/a The Bank of Maine ("TBM") dated July 30, 2004 and recorded in the Lincoln Registry of Deeds in Vol. 3335, Page 293. The mortgage interest being foreclosed is described in the Order and Judgment of Foreclosure dated May 9, 2011 and entered by the Maine District Court (at Wiscasset) in the action docketed as *The Bank of Maine v. Naylor et al.*, Docket No. WIS-RE-2009-80.

Date/Place of Sale - November 1, 2011 commencing at 10:00 a.m. at 845 State Route 129, South Bristol, Maine.

Nature of Sale - TBM is foreclosing the real estate mortgage described above and granted by Lynette N. Naylor. The public sale of the Property is pursuant to 14 M.R.S.A. § 6321 et seq. and the judgment of foreclosure.

Terms of Sale - (a) Incorporated herein are all of those terms set forth in the Notice of Public Sale published in the *Lincoln County News* on September 29, October 6, 13, 2011, including but not limited to the following: (i) a deposit to bid of \$5,000.00 in certified funds, payable to Keenan Auction Company; and (ii) the balance of the purchase price is due and payable within 30 days of the public sale. All deposits to bid from the highest bidder are non-refundable.

(b) TBM 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 encumbrances, whether or not of record in the Lincoln Registry of Deeds, as well as all real estate transfer taxes.

(d) No personal property is being sold with the Property, and bidders must satisfy themselves as to the legal character of specific property as real or personal in nature.

(e) A record of bidding will be maintained by TBM 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, TBM reserves the right to either hold a new sale or to contact the next highest bidder and allow that party to purchase the Property for the next highest bid as the assignee of the highest bidder. TBM disclaims any responsibility for providing notice of any kind to any person subsequent to the public sale.

(f) TBM 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 TBM.

(g) The transfer of the Property by TBM will be by release deed in substantially the same form as that attached to the Purchase and Sale Agreement included in the bid package provided to registered bidders by the auctioneer.

Purchase and Sale Agreement - the highest bidder for the Property will be required to execute a Purchase and Sale Agreement with TBM, 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: November 1, 2011

Keenan Auction Company, One Runway Road, South Portland, ME 04106 ■ 207-885-5100 ■ www.keenanauction.com ■ Auctioneer

Michael S. Haenn, Esq., 88 Hammond Street, Bangor, ME 04401 ■ 207-990-4905 ■ www.haennlaw.com ■ Attorney for The Bank of Maine

PURCHASE AND SALE AGREEMENT

AGREEMENT made as of this 1st day of November, 2011 by and between the following parties:

Seller: The Bank of Maine, a corporation organized under the laws of the United States of America with a place of business in Gardiner, 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 at 845 State Route 129 in South Bristol, Maine, and more particularly described in the release deed annexed hereto as an exhibit ("the Property").

2. **Basic Terms of Transfer.** Seller hereby agrees to transfer, and Buyer agrees to purchase, the Property on or before December 1, 2011 ("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 Lincoln 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 November 1, 2011 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) Five Thousand Dollars (\$5,000.00) 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 except to the auctioneer. Buyer is not liable, by virtue of this Agreement, for payment of any fees to the

auctioneer.

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 Kennebec 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:

THE BANK OF MAINE

By: _____
Alvin W. Butler
Its Sr. Vice President

Buyer - SS#/EID

Buyer - SS#/EID

Disclaimer: Please read this Purchase and Sale Agreement carefully.

Neither Seller nor the auctioneer, nor their respective 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

The Bank of Maine f/k/a Savings Bank of Maine and Gardiner Savings Institution, FSB, a corporation organized under the laws of the United States of America with a place of business in Gardiner, County of Kennebec and State of Maine, for consideration paid, releases to _____ **[Buyer]** _____, certain real property situated in South Bristol, County of Lincoln and State of Maine, and more particularly bounded and described as follows:

The land with the buildings thereon located in South Bristol, County of Lincoln and State of Maine, bounded and described as follows:

Parcel 1: Beginning at a stake on the westerly side of Maine State Highway #129, said stake lying North 1° 47' East from a stake at the northeast corner of land of Addison McFarland; thence due westerly by land formerly of Lynwood Goudy seventy-nine and two tenths (79.2) feet to other land of said Goudy; thence due north one hundred (100) feet by said L. Goudy land to a stake at land now of Lynwood Goudy; thence due east by said Goudy land seventy-eight and five-tenths (78.5) feet to a stake; thence due south one hundred (100) feet to the point of beginning. Together with the land lying between the easternmost boundary above described and the right of way of the aforementioned highway.

Parcel 2: Beginning on the west side of State Route No. 129 at the southeast corner of bound of land described in a deed from Dana D. and Annie B. Goudy to Alice M. Herald dated August 30, 1928, recorded in Lincoln County Registry of Deeds, Book 383, Page 552 (hereafter referred to as "Cottage Lot"); thence South 1° 47' West ninety-nine and one-half (99.5) feet to a stake; thence South 86° 54' W two hundred eighty-five and three-tenths (285.3) feet to a stake (omitted in prior deed through a scrivener's error); thence North 3° 12' West two hundred fifteen (215) feet to a stake; thence due east two hundred twenty and one-half (220.5) feet to the northwest corner of the aforementioned Cottage Lot; thence due south by the west boundary of said Cottage Lot one hundred (100) feet; and thence due east seventy-nine and two tenths (79.2) feet to the point of beginning, containing one and twenty-one one hundredths (1.21) acres.

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

For Grantor's source of title reference may be had to the mortgage deed of Lynette N. Naylor f/k/a Lynette N. Creamer dated July 30, 2004 and recorded in the Lincoln Registry of Deeds in Vol. 3335, Page 293. The Grantor foreclosed said mortgage deed

in an action commenced in the Maine District Court (at Wiscasset) in the action docketed as *The Bank of Maine v. Naylor et al.*, Docket No. WIS-RE-2009-80, 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: *Lincoln County News*.

Dates of publication: September 29, October 6, 13, 2011.

Sale date: November 1, 2011. [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, The Bank of Maine has caused this instrument to be executed by Alvin W. Butler, Its Sr. Vice President duly authorized this _____ day of November, 2011.

Witness:

THE BANK OF MAINE

By: _____
Alvin W. Butler
Its Sr. Vice President

State of Maine
Kennebec, ss.

November _____, 2011

Personally appeared the above-named Alvin W. Butler, Sr. Vice President of The Bank of Maine, and acknowledged the foregoing instrument by him signed to be his free act and deed in said capacity and the free act and deed of said corporation.

Before me,

Notary Public
Printed Name:

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 May 9, 2011 and entered by the Maine District Court (at Wiscasset) in the action entitled *The Bank of Maine v. Lynette N. Naylor et al.*, Docket No. WIS-RE-2009-80; and wherein the Court adjudged a foreclosure of the mortgage deed granted by Lynette N. Naylor f/k/a Lynette N. Creamer dated July 30, 2004 and recorded in the Lincoln Registry of Deeds in Vol. 3335, Page 293; the period of redemption having expired; a public sale will be conducted on November 1, 2011 commencing at 10:00 a.m. at 845 State Route 129 in South Bristol, Maine of the property described as "First Parcel" in the said mortgage deed. The property which is situated generally at 845 State Route 129 in South Bristol, Maine is also described on the South Bristol Tax Maps as Map ____, Lot _____. Reference should be had to said mortgage deed for a more complete legal description of the property to be conveyed.

The property will be sold by public auction subject to all outstanding municipal assessments. The deposit to bid is \$5,000.00, with the balance 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.