

In re: §
§
ADAM STUMP SR. and ZANNA STUMP § CASE NO. 3:17-BK-00746
§
Debtors. § Chapter 11

**DEBTORS' MOTION TO SELL PROPERTY
FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES
WITH LIENS AND ENCUMBRANCES ATTACHING TO PROCEEDS**

Come now the Debtors abovesaid, by and through bankruptcy counsel, John Wiley, and move the Court, pursuant to, *inter alia*, sections 105, 363 and 365 of the United States Bankruptcy Code (11 U.S.C. §§ 101, et seq.; the "Bankruptcy Code") and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") to permit the sale of Debtors' real estate free and clear of all liens and encumbrances, and upon the same the Court finds and rules as follows:

1. There are multiple parcels of real estate, together with all improvements, equipment, furnishings, fixtures, inventory, etc, located thereon (the "Property") to be sold.

2. The parcels of real property are located in Hampshire County, West Virginia:

369 South Branch River Road, South Branch River Road (total 708 Acres), South Branch River Road (47 Acres), Romney, West Virginia 26757;

Map 17, Parcel 1.2: 179.725 Acres

Map 18, Parcel 44.4: 296.65 Acres

Map 18, Parcel 44: 232.582 Acres

Map 13, Parcel 6: 43.558 Acres

Map 13, Parcel 4: 3.39 Acres

Other Description: _____

Bidders of the Property shall offer to pay via written bid sheet in form attached, with ten percent (10%) down and NO MONIES being financed by the Debtors, to be offered individually or together as determined by the Realtor.

for the Debtor, were instrumental in soliciting Riverside Mulch offers, in a related bankruptcy, after marketing, and will request approval of the commission due, together with expenses through closing.

3. Debtors move that said proposed sale is expressly was subject to the filing of objections thereto by parties in interest or the receipt of higher and better offers by that date and time certain (the "Deadline") of 5:00 p.m. on 29 September 2017 to be further established in the Notice.

4. Further, as also detailed in the proposed form of Notice attached, pursuant to bidding procedures (the "Bidding Procedures") therein contained, this Court is requested to enter its Order granting the preliminary procedural relief requested in the Sale Motion and scheduling a hearing (the "Sale Hearing") on October 19, 2017 at 1:30 p.m. in the Bankruptcy Court (the "Courthouse") in Martinsburg, West Virginia on approval of the remaining relief requested in the Sale Motion including consideration of any objections thereto or higher and better offers for the purchase of the Property. It is provided that, as contemplated in the Bidding Procedures, in the event of the receipt by the Debtors of any higher and better offers for the purchase of the Property, the Debtors, acting through Realtor, would conduct an auction between any competing qualified bidders immediately prior to said hearing outside the Courthouse at 1:00 p.m. on that same date.

5. The sale proceeds will be disbursed as follows: first, to Realtor in payment of real estate sales commission; second, to all usual and ordinary, reasonable and necessary costs and expenses of Closing (including but not limited to real estate taxes and tax liens); third, to the payment to Bank, First United (as directed by their respective counsel) upon the indebtedness secured by the liens of said secured creditor upon the Property; and fourth, the remainder, if any, of said sale proceeds, payable to the Debtor's counsel in trust for the benefit of any claims of

confirmed, as this Court may further order after notice and hearing.

Wherefore, after proper notice Debtors MOVE this Court GRANT Debtors' motion and
ORDER that the Debtors' property be sold free and clear of liens and encumbrances, with
encumbrances attaching to proceeds, as set forth in the motion and its attachments.

DEBTORS

By BKR COUNSEL

/s/ John F Wiley WV 4038
J Frederick Wiley, PLLC
PO Box 1381
Morgantown, WV 26507
(304) 906-7929

Adam & Zanna Stump, Sr. - Bidding Procedures Outline

On behalf of _____, the Bidder,

Makes an offer of \$ _____ (BID)

For (Name which Parcels): 369 South Branch River Road, South Branch River Road (total 708 Acres), South Branch River Road (47 Acres), Romney, West Virginia 26757

____ Map 17, Parcel 1.2: 179.725 Acres \$ _____

____ Map 18, Parcel 44.4: 296.65 Acres \$ _____

____ Map 18, Parcel 44: 232.582 Acres \$ _____

____ Map 13, Parcel 6: 43.558 Acres \$ _____

____ Map 13, Parcel 4: 3.39 Acres \$ _____

____ Other Description: _____

Deposit (10%): _____

Upon the following listed real estate: SEE LEGAL DESCRIPTION

Offer Subject to Approval by Bankruptcy Court – Once you make your offer, it is not yet mutually accepted. The Court hearing on 19 October 2017 at 1:30 p.m. will review and approve the highest offer(s), subject to any higher bids received. You do not have a valid contract until that point.

Right to Accept Higher Bids – Up until the Court approves your offer, bankruptcy law requires that the agent continue to accept other offers if they are better than yours. The law allows you the opportunity to match those higher offers, but the risk that someone else beats your bid remains all the way until the court hearing. The court may end the bidding process at that time. If you do not wish to bid higher, you may authorize Mr. Matlat to simply submit your written offer.

There shall be an oral auction outside the Federal Courthouse in Martinsburg, WV at 1:00 pm to determine higher bids and the Court thereafter shall declare the winning bidder(s). Should the winning bidder(s) fail to close in sixty (60) days, the second highest bidder (back up bidder) shall be automatically accepted. There is no assurance that the land will be yours until the judge issues written court approval of your offer. As a buyer, you then have 60 days to close and will receive a deed for the real estate free and clear of all liens and encumbrances.

OFFEROR: _____

Signed by: (x) _____ **Date:** _____

STUMP BID
Permitted Exceptions

Upon the above listed real estate: SEE LEGAL DESCRIPTION

1.1 Title Evidence. Within twenty five (25) business days after the Effective Date, Buyer, at Buyer's expense, shall obtain an ALTA Owner's Policy Form B-1970 (rev. 10-17-70 and 10-17-84) commitment for title insurance covering the Property and issued by a title insurance company acceptable to Buyer (the "Title Company"), which commitment (the "Title Commitment") shall agree to issue to Buyer, upon the Closing, a title insurance policy insuring the Property without exception for any matters other than the Permitted Exceptions as hereinafter set forth, together with any promulgated endorsements as may be requested by Buyer. Legible copies of all documents referred to as exceptions to title in the Title Commitment must be delivered to Buyer at the time the Title Commitment is delivered.

1.2 Survey. Within twenty five (25) days after the Effective Date and unless Buyer has otherwise terminated this Agreement pursuant to Section 1.4 hereof, Buyer, at Buyer's expense, may optionally obtain a current boundary survey of the Property (the "Survey") and shall deliver a copy to Seller promptly thereafter. Prior to the Closing, Buyer, at Buyer's expense, may elect to have the Survey recertified in order to cause the certification date to be closer to the Closing Date, and any subsequent change from the required Survey that may appear in the recertified Survey, other than the certificate date, shall be subject to the curative terms and provisions hereof.

1.3 Cure of Title Defects. In the event that any exceptions appear in the Title Commitment or any matters appears on the Survey which are unacceptable to Buyer, Buyer shall, within seven (7) business days after the Effective Date, shall notify Seller in writing of such fact and the reasons therefore (the "Title Notice"). In addition, in the event the Survey shows any encroachments of any improvements upon, from or onto the Property or in the event the Survey depicts any overlaps, strips or gores or in the event the Survey shows any other matters which are not acceptable to Buyer, the same shall be deemed to be a title defect and shall be treated as an objection to title by Buyer under this Section 1.3. If no Title Notice is delivered by Buyer to Seller within the aforesaid period, Buyer shall be deemed to have accepted all exceptions to title shown on the Title Commitment and all matters depicted on the Survey, and such exceptions and matters shall be deemed to be "Permitted Exceptions" as used hereunder. If a Title Notice is delivered by Buyer to Seller within the permitted time period, Seller, within five (5) business days after receipt of Title Notice, shall notify Buyer whether it intends to attempt to cure the matter of which the Title Notice has been given or whether it elects not to cure any such matter(s) ("Seller's Notice"). In the event Seller elects to attempt to cure any matter(s) referenced in the Title Notice, Seller

shall have ten (10) business days after delivery of Seller's Notice in which to do so (the "Curative Period"). Notwithstanding anything to the contrary contained herein, Seller shall have no obligation to bring any action or proceeding or otherwise to incur any expense whatsoever to eliminate, modify or cure such unacceptable exceptions and matters except for monetary liens which liens Seller shall remove of record no later than Closing. In the event Seller is unable or unwilling to eliminate or modify such unacceptable title exceptions (other than the aforesaid monetary liens which Seller shall be obligated to remove), Buyer, as its sole and exclusive remedies, may, within three (3) business days after receipt of Seller's Notice in the event Seller elects not to cure the matter(s) referenced in the Title Notice or within three (3) business days after the expiration of the Curative Period in the event Seller elects to cure but is unsuccessful in curing the defects(s) of which proper notice has been given, but in no event later than the Closing Date (i) terminate this Agreement by notice in writing to Seller or (ii) accept such title as Seller can deliver and any matters shown on the Title Commitment shall be included in the term "Permitted Exceptions". If Buyer fails to respond within such three (3) business days, Buyer shall be deemed to have terminated this Agreement. In the event of such termination, the parties shall have no further rights or obligations hereunder, and the Deposit shall be returned to Buyer once all of the Expenses associated with the Work have been paid in full. Within five (5) business days prior to Closing, Buyer may update the Title Commitment (the "Updated Title Commitment"), and deliver a copy thereof, together with copies of any new title matters, to Seller. If the Updated Title Commitment reflects any exceptions to the title other than the Permitted Exceptions and any matters which (i) are otherwise contemplated by this Agreement or (ii) are created as a result of the act or omission of Buyer, Buyer shall notify Seller of any such exceptions, and Seller shall use its best efforts to cure the matters of which the notice has been given prior to Closing. In the event Seller is unable to cure any such matter after its good faith efforts to do so and within ten (10) days after its receipt of such notice (with the Closing Date extended to allow the full running of such 10-day period), Buyer may either terminate this Agreement by notice in writing to Seller, exercise Buyer's remedies if such new matters would be deemed a default by Seller under this Agreement or accept such title as Seller can deliver, and any matters shown on the updated Title Commitment shall be deemed to be "Permitted Exceptions." In the event of any such termination, the parties shall have no further rights or obligations hereunder, and the Deposit shall be returned to Buyer once all of the Expenses associated with the Work has been paid in full. It is specifically understood and agreed that Buyer hereby objects to and will require the removal, correction or deletion of all standard exceptions set forth in the Title Commitment, and any gap, overlap, boundary dispute, hiatus or encroachment identified on the Survey which affects the Property or any adjacent properties.

1.4 Permitted Exceptions. The Property shall be conveyed to Buyer subject to no liens, charges, encumbrances, easements, restrictions, exceptions or reservations of any kind or character other than the following exceptions (the "Permitted Exceptions"):

- (a) *Ad valorem* taxes not yet due and payable for the year of Closing and subsequent years;
- (b) Zoning ordinances and, all other laws, rules, regulations and ordinances, of any governmental authorities having jurisdiction over the Property; and
- (c) Any easements, restrictions or other matters which may be waived by Buyer pursuant to Section 1.3 hereof.
- (d) Offer is subject to Approval by Bankruptcy Court and offer acceptance thereby may be extended by the availability of a court hearing docket during which a judge will review and approve the offer, subject to any higher bids received. There may be an oral auction at the court hearing to determine the final price and winning bidder. Should the winning bidder fail to close in sixty (60) days, the second highest bidder (back up bidder) shall be automatically accepted.

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

In re:	§	
	§	
ADAM STUMP SR. and ZANNA STUMP	§	CASE NO. 3:17-BK-00746
	§	
Debtors.	§	Chapter 11

**NOTICE OF MOTION TO SELL PROPERTY
FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES
WITH LIENS AND ENCUMBRANCES ATTACHING TO PROCEEDS**

Debtors abovesaid have moved the Court to permit the sale of Debtors' real estate free and clear of all liens and encumbrances, together with all improvements, equipment, furnishings, fixtures, inventory, etc, located thereon (the "Property") in or near 369 South Branch River Road, South Branch River Road (total 708 Acres), South Branch River Road (47 Acres), Romney, West Virginia 26757:

Map 17, Parcel 1.2: 179.725 Acres

Map 18, Parcel 44.4: 296.65 Acres

Map 18, Parcel 44: 232.582 Acres

Map 13, Parcel 6: 43.558 Acres

Map 13, Parcel 4: 3.39 Acres

Other Description: _____

Proposing that Bidders of the Property shall offer to pay via written bid sheet in form attached to the Motion, with ten percent (10%) down and NO MONIES being financed by the Debtors, to be offered individually or together as determined by the Realtor, AG Realty Partners by Mike Matlat, subject to the receipt of higher and better offers by that date and time certain (the "Deadline") of 5:00 p.m. on 29 September 2017, pursuant to bidding procedures (the "Bidding Procedures") therein contained, this Court is requested to schedule a hearing (the "Sale Hearing") on October 19, 2017 at 1:30 p.m. in the U.S. Bankruptcy Court, US District Courthouse, 217 W. King Street, Martinsburg, West Virginia 25401 for approval of the remaining relief requested in the Sale Motion including consideration of any higher and better offers, and in the event of the receipt of any higher and better offers for the purchase of the Property, the Realtor would conduct an auction between any competing qualified bidders immediately prior to said hearing outside the Courthouse at 1:00 p.m. on that same date, ORDERING therein that the Debtors' property be sold free and clear of liens and encumbrances, with encumbrances attaching to proceeds, as set forth in the motion and its attachments.

Objections hereto must be filed with the Clerk of Court electronically or at the address below, by 29 September 2017, with a copy to: John F. Wiley, PO Box 1381, Morgantown WV 26507-1381

US Bankruptcy Court
Clerk Ryan Johnson
PO Box 70
1125 Chapline St.
Wheeling WV 26003

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

In re:

ADAM STUMP SR. and ZANNA STUMP

Debtors.

§
§
§
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§

CASE NO. 3:17-BK-00746

Chapter 11

**ORDER TO SELL PROPERTY
FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES
WITH LIENS AND ENCUMBRANCES ATTACHING TO PROCEEDS**

On a former date came the Debtors abovesaid, by and through bankruptcy counsel, John Wiley, and moved the Court, pursuant to, *inter alia*, sections 105, 363 and 365 of the United States Bankruptcy Code (11 U.S.C. §§ 101, et seq.; the "Bankruptcy Code") and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") to permit the sale of Debtors' real estate free and clear of all liens and encumbrances, and upon the same the Court finds and rules as follows:

1. There are multiple parcels of real estate, together with all improvements, equipment, furnishings, fixtures, inventory, etc, located thereon (the "Property") to be sold.

2. The parcels of real property are located in Hampshire County, West Virginia:

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Other Description: _____

3. Bidders of the Property shall offer to pay via written bid sheet in form attached, with ten percent (10%) down and NO MONIES being financed by the Debtors, to be offered individually or together as determined by the Realtor.

4. AG Realty Partners by Mike Matlat, being approved by the Court to act as realtor for the Debtor, were instrumental in soliciting Riverside Mulch offers, in a related bankruptcy, after marketing, and will request approval of the commission due, together with expenses through closing.

5. Debtors move that said proposed sale is expressly was subject to the filing of objections thereto by parties in interest or the receipt of higher and better offers by that date and time certain (the "Deadline") of 5:00 p.m. on 29 September 2017 to be further established in the Notice.

6. Further, as also detailed in the Notice, pursuant to bidding procedures (the "Bidding Procedures") therein contained, this Court is requested to enter its Order granting the preliminary procedural relief requested in the Sale Motion and scheduling a hearing (the "Sale Hearing") on October 19, 2017 at 1:30 p.m. in the Bankruptcy Court (the "Courthouse") in Martinsburg, West Virginia on approval of the remaining relief requested in the Sale Motion including consideration of any objections thereto or higher and better offers for the purchase of the Property. It is provided that, as contemplated in the Bidding Procedures, in the event of the receipt by the Debtors of any higher and better offers for the purchase of the Property, the Debtors, acting through Realtor, would conduct an auction between any competing qualified bidders immediately prior to said hearing outside the Courthouse at 1:00 p.m. on that same date.

7. The sale proceeds will be disbursed as follows: first, to Realtor in payment of real estate sales commission; second, to all usual and ordinary, reasonable and necessary costs and

expenses of Closing (including but not limited to real estate taxes and tax liens); third, to the payment to Bank, First United (as directed by their respective counsel) upon the indebtedness secured by the liens of said secured creditor upon the Property; and fourth, the remainder, if any, of said sale proceeds, payable to the Debtor's counsel in trust for the benefit of any claims of entitled creditors and parties in interest, whether pursuant to any confirmed plan, or if no plan be confirmed, as this Court may further order after notice and hearing.

Therefore, after proper notice and no objection being sustained thereto, this Court GRANT Debtors' motion and ORDERS herein that the Debtors' property be sold free and clear of liens and encumbrances, with encumbrances attaching to proceeds, as set forth in the motion and its attachments.

SO ORDERED.

Prepared by:

John F Wiley WV 4038
J Frederick Wiley, PLLC
PO Box 1381
Morgantown, WV 26507

