

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:
BARLEN PG, INC.

CASE NO: 12-66590
CHAPTER: 11
JUDGE: TUCKER

DEBTOR

**DEBTOR'S MOTION TO SELL REAL PROPERTY FREE AND CLEAR OF ALL LIENS PURSUANT TO
11 U.S.C. §363(F), et. Seq**

NOW COMES Debtor and through its attorneys, B.O.C. Law Group, P.C., and in support of this motion states the following:

1. Debtor filed this Chapter 11 matter on or about December 7, 2012.
2. This Court confirmed Debtors' First Amended Chapter 11 Plan and Disclosure Statement on July 12, 2013.¹
3. On January 16, 2014, this Court administratively closed Debtor's Chapter 11 case.
4. Pursuant to the Order Confirming Plan, Debtor had priority and wholly unsecured tax claims owing to the United States-Internal Revenue Service.² Notwithstanding the fact that the IRS's tax liens were subordinate to other secured claims, Debtor consented to allow the IRS to retain its liens on Debtor's property until said claim(s) was paid in full.
5. The IRS's total filed claims against all three jointly administered Debtors, including this Debtor (Barlen, P.G., Inc.), was approximately \$344,300.00, against which Debtor has timely paid \$226,037.70 (3 annual payments of \$75,345.90). Debtor is current with all payments to the IRS, the next being due no later than January 31, 2017.
6. Debtor now has received an offer to purchase a significant number of its equipment and property (See attached list). However, purchaser requires that either the tax liens first be released or debtor obtains an order from this Court allowing for the sale free and clear of said liens.
7. Debtor, through counsel, has twice attempted to contact the IRS, through the United States Attorneys Office, to obtain consent to release the IRS liens pending the sale of the property listed on the list attached to this Motion; however, such consent could not be obtained.

¹ Debtor's case was jointly administered with the companion cases: 12-66638 (Barlen Contracting, Inc.) and 12-66663 (Barlen Sanitation Solutions, Inc.)

² The IRS had filed pre-petition tax liens against Barlen Contracting, Inc., which were subordinate to other secured creditors.

8. Debtor now seeks this Court's approval of said sale and an Order Allowing Debtor to Sell Property Free and Clear of All Liens. Upon sale said items, all net proceeds, up and to the amount(s) owed to the IRS for its filed and allowed claims shall be turned over to the IRS; concurrently the IRS would issue either a satisfaction and/or release of all Federal Tax Liens filed against these jointly administered Debtors, Barlen, P.G., Inc., Barlen Contracting, Inc., and Barlen Sanitation Solutions, Inc.
9. Pursuant to 11 U.S.C. §363(f), the Trustee [in which the jointly administered Debtors act as such in this Chapter 11 proceeding] "may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate only if-(1) applicable non-bankruptcy law permits the sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. **11 U.S.C. §363(f).**
10. Debtor asserts that the proposed sale is appropriate and proper, and further more Debtor has demonstrated cause to sell said property, pursuant to 11 U.S.C. §363(f)(1) and (3), as Debtor reasonably believes the proposed sale proceeds will be equal to or greater than the current balances still owing to the IRS.
11. Attached is a proposed order.

WHEREFORE Debtor prays this Honorable Court grant its Motion and for what further relief this Court deems equitable and just.

Respectfully Submitted,

/s/ Corey M. Carpenter _____

B.O.C. Law Group, P.C.

By: William R. Orlow (P41634)

Corey M. Carpenter (P67818)

Attorneys for Debtor

24100 Woodward Avenue

Pleasant Ridge, MI 48069

248-584-2100

coreycarpenter@boclaw.com

Date: November 14, 2016

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**IN RE:
BARLEN PG, INC.**

**CASE NO: 12-66590
CHAPTER: 11
JUDGE: TUCKER**

DEBTOR

**ORDER ALLOWING DEBTOR TO SELL PROPERTY FREE AND CLEAR OF ALL
LIENS**

This matter having come before this Court on Debtor's Motion to Sell Property Free and Clear of All Liens, *et. Seq.*; that all creditors and/or interested parties, including the United States Trustee and the Internal Revenue Service having been duly served with a copy of this Motion; that no timely response being filed; that a **Certificate of Non-Response** being duly filed with the Court; and the Court being fully advised in the premises;

NOW THEREFORE;

IT IS HEREBY ORDERED that Debtor's is hereby authorized, pursuant to 11 U.S.C. §363(f), to sell personal property as disclosed in his Motion to Sell Property Free and Clear of All Liens (see attached List, which is incorporated herein by reference).

IT IS FURTHER ORDERED that such a sale shall be free and clear of all liens, including those of the Internal Revenue Service. Further, that Debtor shall turn over all net proceeds of said sale to the Internal Revenue Service toward the satisfaction of pre-petition claims held by the IRS against the Debtor.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:
BARLEN PG, INC.

CASE NO: 12-66590
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DEBTOR

Address PO Box 271, Brighton, MI 48114

Last four digits of Social Security or Employer's Tax Identification (EIN) No(s).(if any): xx-xxx6573

**NOTICE OF DEBTOR'S MOTION TO SELL PERSONAL PROPERTY FREE AND CLEAR OF ALL
LIENS PURSUANT TO 11 U.S.C. §363(f)**

B.O.C. LAW GROUP, P.C. HAS FILED PAPERS WITH THE COURT

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to [relief sought in a motion or objection], or if you want the court to consider your views on the Motion, within **14** days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:¹

United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

B.O.C. Law Group, P.C.
Attorney for Debtor(s)
24100 Woodward Avenue
Pleasant Ridge, Michigan 48069

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: November 14, 2016

/s/ Corey M. Carpenter

B.O.C. Law Group, P.C.

By: **William R. Orlow (P41634)**

Corey M. Carpenter (P67818)

Attorneys for Debtor

24100 Woodward

Pleasant Ridge, MI 48069

(248) 584-2100

coreycarpenter@boclaw.com

¹ Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:
BARLEN PG, INC.

CASE NO: 12-66590
CHAPTER: 11
JUDGE: TUCKER

DEBTOR

**DEBTOR'S BRIEF IN SUPPORT OF MOTION TO SELL REAL PROPERTY FREE
AND CLEAR OF ALL LIENS PURSUANT TO 11 U.S.C. §363(F), et. Seq**

NOW COMES Debtor and through his attorneys, B.O.C. Law Group, P.C., and in support of this motion states the following:

Debtor hereby relies upon the facts and attachments provided for herein, as well as 11 U.S.C. §363(f), *et. Seq.* and 11 U.S.C. §105(a), *et. Seq.* in support of the relief requested in Debtor's Motion.

WHEREFORE Debtor prays this Honorable Court grant its Motion and for what further relief this Court deems equitable and just.

Respectfully Submitted,

/s/ Corey M. Carpenter
B.O.C. Law Group, P.C.
By: William R. Orlow (P41634)
Corey M. Carpenter (P67818)

Attorneys for Debtor
24100 Woodward Avenue
Pleasant Ridge, MI 48069
248-584-2100
coreycarpenter@boclaw.com

Date: November 14, 2016

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:
BARLEN PG, INC.

CASE NO: 12-66590
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DEBTOR

CERTIFICATE OF SERVICE

Corey M. Carpenter on November 14, 2016, did send the following pleadings: **Motion to Sell Real Property Free and Clear of All Liens, et. Seq., Proposed Order, Notice and Opportunity to Respond and Certificate of Service (with Matrix)**, by sending said pleading via the Court's ECF system and First Class U.S. mail:

United States Trustee
211 W. Fort St., Ste. 700
Detroit, MI 4826
(ECF & First Class Mail Only)

And via First Class U.S. Mail upon:

All creditors on attached Matrix

Respectfully Submitted,

/s/ Corey M. Carpenter

B.O.C. Law Group, P.C.

By: William Orlow (P41634)

Corey M. Carpenter (P67818)

Attorneys for Debtor

24100 Woodward Avenue

Pleasant Ridge, MI 48069

248-584-2100

coreycarpenter@boclax.com

Date: November 14, 2016

Label Matrix for local noticing
0645-2
Case 12-66590-tjt
Eastern District of Michigan
Detroit
Mon Nov 14 10:45:33 EST 2016

Lazaro de Jesus Fernandez Garcia
c/o Gruel Mills Nims & Pylman, PLLC
99 Monroe Ave, NW
Suite 99
Grand Rapids, MI 49503-6211

State of Michigan Department of Treasury
Michigan Department of Attorney General
Cadillac Place
3030 W. Grand Blvd., Ste 10-200
Detroit, MI 48202-6030

Attorney General - Dept. of Treasury
Acct No xx-xxx6573
Cadillac Place
3030 West Grand Boulevard
Detroit, MI 48202-6030

Bart John Wingblad
PO Box 271
Brighton, MI 48116-0271

Brighton Yard Rental
Century Center of Green Oak LLC
7695 Milford Road
Holly, MI 48442-8649

Florence A. Wingblad Trust
33990 Edna
Farmington Hills, MI 48335-5324

IRS
Acct No xx-xxx6573
PO Box 7346
Philadelphia, PA 19101-7346

(p)INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA PA 19101-7346

Juana C. Ruiz
J.R. Trucking
1733 Hillcrest Street
Lansing, MI 48910-4319

Barlen P.G. Inc.
PO Box 271
Brighton, MI 48116-0271

Michigan Unemployment Insurance Agency
Tax Office Bankruptcy Unit
3030 West Grand Blvd, Suite 11-500
Detroit, MI 48202-6030

United States Attorney
One Detroit Center
500 Woodward Avenue
Suite 1300
Detroit, MI 48226-3416

Barlen Contracting, Inc
PO Box 271
Brighton, MI 48116-0271

Beals Hubbard PLC
PO Box 310
Milford MI 48381-0310

Candido A. Lopez
C.L.M. Trucking
4218 Balmoral Drive
Lansing, MI 48911-2564

Florence Ann Wingblad
c/o Ahern & Kill P.C.
430 N. Old Woodward Ave.
2nd Fl.
Birmingham,MI 48009-5316

IRS/Chief Counsel
Acct No xx-xxx6573
One Detroit Center
500 Woodward Ave.
Suite 1300 - Stop 31
Detroit, MI 48226-3416

Internal Revenue Service
Acct No xx-xxx6573
Rebecca Mayer
38275 West Twelve Mile Road
Suite 200 Group 44
Farmington Hills, MI 48331-3042

MESA
Acct No xx-xxx6573
PO Box 33598
Detroit, MI 48232-5598

Florence Ann Wingblad Revocable Trust
Ahern & Kill
430 N. Old Woodward
Second Floor
Birmingham, MI 48009-5316

Miguel Angel Valdez Dip
c/o Gruel Mills Nims & Pylman, PLLC
99 Monroe Ave, NW
Suite 800
Grand Rapids, MI 49503-2654

AT&T
Acct No 721157
c/o United Tranz Actions
2811 Corporate Way
Miramar, FL 33025-3972

Barlen Sanitation Solutions, Inc.
PO Box 271
Brighton, MI 48116-0271

Beals Hubbard, PLC
30665 Northwestern Hwy
Suite 100
Farmington Hills, MI 48334-3128

David Holt Landscaping, Inc
33523 8 Mile Rd.,
Suite A3119
Livonia, MI 48152-4118

Hi-Tech Transmission
30400 Grand River
Farmington Hills, MI 48336-4312

IRS/Chief Counsel
Acct No xx-xxx6573
P.O. Box 330516
Detroit, MI 48232-6516

Jair D. Rodriguez
J.R. Landscaping Contracting
6141 Scotmar Drive
Lansing, MI 48911-6033

Michigan CAT
24800 Novi Road
Novi, MI 48375-2414

Michigan Department of Treasury
Bankruptcy Unit
PO Box 30168
Lansing, MI 48909
5 48909-7668

Robert D. Mouradian
33300 Five Mile Rd., Suite 110
Livonia, MI 48154-3074

State of Michigan
Acct No xx-xxx6573
Department of Treasury
Collection Division
PO Box 30199
Lansing, MI 48909-7699

State of Michigan Unemployment Insurance Age
Tax Office-POC Unit
Ste 11-500
3024 W Grand Blvd
Detroit, MI 48202-6024

Superior Welding & Repair LLC
59706 Trend Lane
South Lyon, MI 48178-9456

TCF BANK C/O MMCC xxx7761
6324 TAYLOR DR
FLINT, MI 48507-4680

U.S. Attorney
Acct No xx-xxx6573
211 W. Fort Street
Suite 2001
Detroit, MI 48226-3220

U.S. Department of Labor
c/o Linda J. Ringstad
230 South Dearborn Street
Room 844
Chicago, IL 60604-1779

U.S. Department of Treasury-RMS
Acct No xx-xxx6573
Debt Management Services
PO Box 979101
Saint Louis, MO 63197-9000

U.S. Trustee
211 W. Fort Street
Suite 700
Detroit, MI 48226-3263

UIA
Acct No xxx9927
Cadillac Place Tax Office 11th Floor
3024 W Grand Blvd.
Detroit, MI 48202-6024

US Attorney
211 W Fort St Ste 2100
Detroit, MI 48226-3211

United Tranzactions, LLC
3200 Executive Way
Miramar FL 33025-3930

Weingartz
39050 Grand River Avenue
Farmington Hills, MI 48335-1500

Zervos Agency, Inc.
24724 Farmbrook Road
P.O. Box 2067
Southfield, MI 48037-2067

C. Jason Cardasis
24100 Woodward Avenue
Pleasant Ridge, MI 48069-1138

Corey M. Carpenter
24100 Woodward Ave
Pleasant Ridge, MI 48069-1138

Martin Jerome
19022 West Ten Mile Road
Southfield, MI 48075-2416

Nicholas B. Andrew
24100 Woodward Ave.
Pleasant Ridge, MI 48069-1138

William R. Orlow
24100 Woodward Ave.
Pleasant Ridge, MI 48069-1138

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

IRS/District Director
Acct No xx-xxx6573
SBSSE/Insolvency Unit
PO Box 330500, Stop 15
Detroit, MI 48232

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Daniel M. McDermott

End of Label Matrix	
Mailable recipients	49
Bypassed recipients	4
Total	53

Barlen PG INC.

October 12, 2016

B.O.C. Law Group, P.C.
24100 Woodward Avenue, Suite B
Pleasant Ridge, MI 48069
Attention: Mr. William Orlow

Email: WRO@boclaw.com
Fax: 248-584-1750

LIST OF EQUIPMENT TO BE SOLD THRU MICHIGAN CATIPILLAR

(1)	CAT Lift Truck Hi-Lo	\$5,000.00
(4)	Snow Pushers 8'	1,960.00 each
(4)	Snow Pushers 10'	1,680.00 each
(8)	Snow Pushers 14'	2,650.00 each
(2)	Snow Pushers 14' High Profile	2,850.00 each
(19)	Snow Pushers 12'	2,460.00 each
(1)	Snow Pusher 12'	500.00
(1)	Snow Pusher 18'	2,750.00
(2)	Snow Pusher 20'	2,815.00 each
(1)	Wing Plow 18'	10,950.00
(1)	CAT D3CX Dozer (SN 6SL02251)	15,000.00
(1)	CAT 9146 Loader (SN 9WM02529)	30,000.00
(1)	CAT 416 Loader/Backhoe (SN 8SK06692)	18,900.00
(1)	CAT 416 Loader/Backhoe (SN 8S601986)	15,750.00
(1)	CAT 416 Loader/Backhoe (SN 5YN06727)	22,500.00
(1)	Equipment Trailer (VIN 270265)	1,500.00
(1)	Equipment Trailer (VIN 2203)	12,000.00
(1)	Equipment Trailer (VIN14330)	5,000.00