

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

In re: BILL HALL TRUCKING GP, LLC <p style="text-align: center;">Debtor</p> <hr style="border: 0.5px solid black;"/>	§ § § § § § §	Chapter 11 Case No. 17-50167-rbk
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**DEBTOR'S MOTION FOR ENTRY OF ORDER AUTHORIZING AND APPROVING
THE SALE OF DEBTOR'S EQUIPMENT FREE AND CLEAR OF ALL LIENS,
CLAIMS AND ENCUMBRANCES OUTSIDE THE ORDINARY COURSE
OF BUSINESS**

TO THE HONORABLE RONALD B. KING
CHIEF UNITED STATES BANKRUPTCY JUDGE:

COMES NOW Bill Hall Trucking GP, LLC, the Debtor and Debtor-in -Possession in the above-referenced bankruptcy case ("Debtor") and files this its *"Motion for Entry of Order Authorizing and Approving the Sale of Debtor's Equipment Free and Clear of All Liens, Claims and Encumbrances Outside the Ordinary Course of Business"* (the "Sale Motion"). In support of the Sales Motion, the Debtor would respectfully show the Court as follows:

Jurisdiction and Venue

1. The Court has jurisdiction to consider the Sale Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding and this Sale Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory predicate for the relief requested herein is section 363 of the Bankruptcy Code.

Preliminary Statement

3. As part of its reorganization strategy, the Debtor, in its business judgment, has decided to sell some of its surplus equipment that is no longer necessary for its current operations. This sale will not affect current operations and will facilitate the presentation of a plan of reorganization.

Relevant Facts

4. On January 25, 2017 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The Debtor continues to manage and operate its business as Debtor-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code. No trustee, examiner or official committees have been appointed in this case.

5. Debtor holds title to various trucks and trailers that it leases to third parties. The debtor has been in business for many years.

6. Since the bankruptcy was filed, the Debtor has negotiated agreements with most of its secured creditor and has found a reliable entity to lease its trucks and trailers.

Equipment

7. The Debtor proposes to sell 19 L/W Bottom Dump trailers. ("Trailers"). The list of Trailers is attached to the Bid Sheet. (Exhibit "A").

Proposed Sale

8. Debtor desires to sell the Trailers to Image Truck Partners for the sum of \$280,250.00. This is a cash sale. Image Truck Partners is a Kansas company and assist companies in selling fleets of trucks and trailers.

Lien Claimants

9. The following entities may assert a lien on the Equipment:

a) Banc of America Leasing & Capital LLC ("BALC") holds a lien on the trailers to secure a debt of \$148,000.00 as per their proof of claim.

b) Bexar County holding a lien for personal property ad valorem taxes.

Relief Requested

10. The proposed sale of the Equipment is outside the scope of Debtor's ordinary course of business and must be approved by the Court pursuant to section 363 of the Code. The Debtor requests that the Court approve the Sale with Image Truck Partners.

11. The proposed sale is free and clear of any pre- or post-petition liens, with any pre- or post-petition liens or priority claims to attach to the proceeds. All monies sufficient to pay BALC and any personal property taxes on these Trailers will be paid at closing. The balance of the proceeds will be retained.

12. Pursuant to 11 U.S.C. § 363, this Sale of the Trailers is appropriate.

Basis for Relief

13. The Debtor has identified these trailers as surplus assets that are unnecessary for its restructuring and emergence from chapter 11. To efficiently and effectively sell these assets and recover the best value for these assets for the Debtor's estate, the Debtor proposes to sell these assets to Image Truck Partners.

14. Accordingly, the relief requested herein should be granted because it represents both an efficient method for the Debtor to accomplish this goal and an exercise of the Debtor's sound business judgment; and will enable the Debtor to maximize the value realized by its estate, creditors, and other parties-in-interest.

15. Section 363(b)(1) of the Bankruptcy Code provides that, "the Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1); *see also* FED. R. BANKR. P. 6004(f)(1) ("All sales not in the ordinary course of business may be by private sale or by public auction."). *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir. 1986) (for a "trustee to satisfy its fiduciary duty to the debtor, creditors and equity holders, there must be some articulated business justification for using, sell, or leasing the property outside the ordinary course of business."). Section 105(a) of the Bankruptcy Code provides in relevant part that "[t]he court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

16. Courts have broad discretion to authorize a sale or other disposition of assets under section 363(b) of the Bankruptcy Code. *In re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986); *Stephen Indus., Inc. v. McClung*, 789 F.2d 386, 388 (6th Cir. 1986) (authorization to sell or dispose of assets reviewed "under an abuse of discretion standard"). Courts employ a flexible, case by case approach. *In re Baldwin United Corp.*, 43 B.R. 905 (Bankr. S.D. Ohio 1984). The key consideration is the court's finding that a "sound business purpose dictates such action." *Stephens Indus.*, 789 F.2d at 390.

Sale of the Assets Free and Clear of Liens, Claims and Encumbrances

17. The Debtor proposes to sell the Equipment pursuant to section 363(b) and (f) of the Bankruptcy Code which, among other things, authorizes a debtor to sell property outside of the ordinary course of business, free and clear of any interest, lien, claim, encumbrance or security interest of any other party, including, but not limited to, any administrative expense or priority claim asserted in this Chapter 11 Case (collectively, "Liens"). Specifically, section 363(f) of the Bankruptcy Code states:

(f) The trustee 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 nonbankruptcy law permits 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); see *In re Elliot*, 94 B.R. 343, 345 (E.D. Pa. 1988) (section 363(f) written in disjunctive; court may approve sale "free and clear" provided at least one of the subsections is met); *In re Shary*, 153 B.R. 724, 725 (Bankr. N.D. Ohio 1993).

18. The Debtor submits that approval of, and authorization to sell the Trailers is in the best interest of the Debtor's estate and creditors. The liens and security interests on any of the Equipment sold shall attach to the proceeds of the sale in the same manner and priority as their pre-petition liens and encumbrances.

19. To the extent that any Liens, other than the permitted Liens related to the Equipment pursuant to section 363(f) of the Bankruptcy Code, such assets should be sold free and clear of such Liens. Liens on the Equipment, if any, are capable of being satisfied by money, and should transfer and attach to the net proceeds of the Sale with the same validity, priority, force and effect that the Liens had on the Equipment immediately prior to the Closing, subject to further order of this Court and subject to the rights and defenses, if any, of the Debtor and any other party in interest with respect thereto.

20. The Sale satisfies the criterion set forth in section 363(f) of the Bankruptcy Code. The Debtor has provided notice of the Sale to all parties on the service list which includes all pre-petition secured creditors, the 20 largest unsecured creditors, the United States Trustee, and those parties requesting notice and therefore all parties who could potentially assert Liens against the Assets. Any holder of an alleged Lien against the Assets could be compelled, in a legal or equitable proceeding, to accept a monetary satisfaction equal to the amount of their claim, or interests in, such assets.

21. Accordingly, the Debtor submits that the Sale of the Equipment free and clear of any Liens satisfies the statutory prerequisites of section 363(f) of the Bankruptcy Code.

Exemption from Transfer Taxes

22. Pursuant to section 1146 of the Bankruptcy Code, the "transfer...or the making or delivery of an instrument of transfer under the plan confirmed under section 1129 of this title, may not be taxed under any law imposing a stamp or similar tax." 11 U.S.C. § 1146©. This provision has been broadly construed to include sales and transfers which occur outside a chapter 11 plan and before or after plan confirmation,

provided that such sales and transfers enable the confirmation and consummation of a chapter 11 plan for the Debtors. *In re Serv. Merch. Co.*, 2000 Bankr. LEXIS 1523 (Bankr. M.D. 2000).

23. The Sale of the Equipment is essential to the consummation of a plan, and therefore should be deemed to be "under a plan" for purposes of section 1146© of the Bankruptcy Code. The Debtor intends to use the net Sale proceeds to satisfy claims asserted against the Debtor by creditors which have valid perfected lien against the Equipment. Accordingly, the Debtor submits that the Sale of the Equipment falls within the scope of the exemption provided for under section 1146© of the Bankruptcy Code.

Immediate Relief Under Bankruptcy Rules 6004(H) and 6006(D) is Appropriate

24. Pursuant to Bankruptcy Rule 6004(g), unless the court orders otherwise, all orders authorizing the sale of property pursuant to section 363 of the Bankruptcy Code are automatically stayed for 14 days after entry of the order. The purpose of Bankruptcy Rule 6004(g) is to provide sufficient time for an objecting party to request a stay pending appeal before the order can be implemented. See Advisory Committee Notes to Bankruptcy Rule 6004(g).

25. The failure to conduct the Auction and approve the Sale expeditiously will have a significant adverse effect on the value realized by the Debtor's estate from the designation of the Equipment. Accordingly, the Debtor submits that waiver of the 14-day stay is appropriate.

No Prior Request

26. No previous request for the relief sought herein has been made to this or any other court.

26. No previous request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully request that the Court enter Orders, substantially in the form annexed hereto, granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Respectfully submitted,

 /s/Dean W. Greer
DEAN W. GREER
2929 Mossrock, Suite 117
San Antonio, Texas 78230
(210) 342-7100
(210) 342-3633 - Telecopier
State Bar No. 08414100
Attorney for Debtor

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was filed with the court and served upon all parties on the attached matrix (including the Debtor) and all parties registered to receive electronic notice via the court's cm/ecf system and/or by first class mail, postage prepaid to those parties identified below on this the 22nd day of May, 2017:

BILL HALL, JR. TRUCKING, GP, LLC
9630 CAGNON ROAD
SAN ANTONIO, TX 78252
DEBTOR

Andrew G. Edson
STRASBURGER & PRICE L.L.P.
901 Main Street, Suite 4400
Dallas, Texas 75202

U.S. TRUSTEE
P. O. BOX 1539
SAN ANTONIO, TEXAS 78295-1539
U.S. TRUSTEE

Don Stecker ·
Linebarger, Goggan, Blair, & Sampson
711 Navarro, Suite 300
San Antonio, Texas 78230

 /s/Dean W. Greer
DEAN W. GREER



Bid Sheet

Date: May 10, 2017
 Expiration Date: TBD

Seller: Bill Hall Jr Trucking GP
 Contact: Dominique Hall
 9630 Cagnon Rd
 San Antonio, TX 78252
 210-867-9497

Buyer: Image Truck Partners
 Rep: Ron Coppaken
 6339 W. 110th Street
 Overland Park, KS 66211
 913-432-8111

Unit #	Year	VIn	Make	Model	Note	Bid
3113	2012	5MC11423CP014870	CPS	L/W Bottom Dump		\$14,750
3114	2012	5MC11425CP014871	CPS	L/W Bottom Dump		\$14,750
3115	2012	5MC11427CP014872	CPS	L/W Bottom Dump		\$14,750
3116	2012	5MC11429CP014873	CPS	L/W Bottom Dump		\$14,750
3117	2012	5MC11420CP014874	CPS	L/W Bottom Dump		\$14,750
3118	2012	5MC11422CP014875	CPS	L/W Bottom Dump		\$14,750
3119	2012	5MC11424CP014876	CPS	L/W Bottom Dump		\$14,750
3120	2012	5MC11426CP014877	CPS	L/W Bottom Dump		\$14,750
3121	2012	5MC11428CP014878	CPS	L/W Bottom Dump		\$14,750
3122	2012	5MC1142XCP014879	CPS	L/W Bottom Dump		\$14,750
3123	2012	5MC11426CP014880	CPS	L/W Bottom Dump		\$14,750
3124	2012	5MC11428CP014881	CPS	L/W Bottom Dump		\$14,750
3125	2012	5MC1142XCP014882	CPS	L/W Bottom Dump		\$14,750
3126	2012	5MC11421CP014883	CPS	L/W Bottom Dump		\$14,750
3128	2012	5MC11425CP014885	CPS	L/W Bottom Dump		\$14,750
3129	2012	5MC11427CP014886	CPS	L/W Bottom Dump		\$14,750
3131	2012	5MC11420CP014888	CPS	L/W Bottom Dump		\$14,750
3134	2012	5MC11420CP014891	CPS	L/W Bottom Dump		\$14,750
3137	2012	5MC11426CP014894	CPS	L/W Bottom Dump		\$14,750

Total \$ 280,250.00

This bid is contingent upon all pieces of equipment meeting the represented condition as indicated, free of any liens or encumbrances, possess clean available titles and will be subject to an inspection that will take place at the time the units come off the road.

****Subject to the approval of the bankruptcy court****

To accept this quotation, sign, date and return:

Date Sign

Thank you for the opportunity to work together!!!

6339 West 110 Street - Overland Park, KS 66211 P: 913-432-8111 F: 913-432-8113 www.imagetruckpartners.com

EXHIBIT A

Label Matrix for local noticing
0542-5
Case 17-50167-rbk
Western District of Texas
San Antonio
Fri May 19 09:28:07 CDT 2017

Airgas USA, Inc.
110 West 7th Street #1400
Tulsa, OK 74119-1077

Banc of America Leasing
M18-900-002-14
2600 W. Big Brave
Troy, MI 48084-3309

CSM Financial LLC 5100
Eastpark Blvd Ste 210
Madison WI 53718

Daimler Trust
McGlinchey Stafford
Attn: Stephanie Tolson
1001 McKinney Street, Ste 1500
Houstonm Texas 77002-6420

Edward M. Lavin, Attorney
8918 Tesoro Dr #418
San Antonio TX 78217-6220

Ford Credit
PO Box 650575
Dallas TX 75265-0575

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c/o Mr. Joe A. Gamez
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San Antonio, TX 78201-4611

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Jason F. DeSouza
3201 Cherry Ridge
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San Antonio, TX 78230-4825

Bill Hall, Jr., Trucking GP, LLC
9630 Cagnon Road
San Antonio, TX 78252-2213

Attorney General of the U.S.
10th & Const. Ave. N.W.#5111
Washington, D.C 20530-0001

Banc of America Leasing & Capital, LLC
c/o Andrew Edson
Strasburger & Price, LLP
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Dallas, Texas 75202-3748

Comptroller of Public Accounts
c/o Office of the Attorney General
PO Box 12548
Austin TX 78711-2548

Deborah Ashen
217 N. Jefferson Street Suite 601
Chicago, IL 60661-1114

First Midwest Equipment Finance Co.
c/o Deborah Ashen
217 N. Jefferson Street Suite 601
Chicago, IL 60661-1114

(p)FORD MOTOR CREDIT COMPANY
P O BOX 62180
COLORADO SPRINGS CO 80962-2180

Guillermo Torres
3201 Cherry Ridge
Suite B-208
San Antonio, TX 78230-4825

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

Kimberly A. Walsh
Assistant Attorney General
Bankruptcy & Collections Division MC 008
PO Box 12548
Austin, TX 78711 2548

U.S. BANKRUPTCY COURT
615 E. HOUSTON STREET, ROOM 597
SAN ANTONIO, TX 78205-2055

BMO
P.O. Box 3040
Cedar Rapids, IA 52406-3040

Bexar County
c/o Don Stecker
711 Navarro, Suite 300
San Antonio, TX 78205-1749

Daimier Truck Financial
13650 Heritage Parkway
Fort Worth TX 76177-5323

Deborah Mae Rhodes
Individually and as Next Friend of
Gracelynn Esquivel and Makayla Boelter
c/o Mr. Derek Causey
100 I-45 North, Ste. 600
Conroe, Texas 77301

First Midwest Equipmentn Finance
80 N. Gordon Street
Elk Gove Village IL 60007-1119

Ford Motor Credit Company LLC
c/o Christopher Naylor
5120 Woodway, Ste. 9000
Houston, Texas 77056-1725

Idalia Cervantes and Juan Cervantes
c/o Mr. Jason Desouza
3201 Cherry Ridge Dr., #B-208
San Antonio, TX 78230-4825

Jason F DeSouza
3201 Cherry Ridge Dr
Suite B-208
San Antonio, TX 78230-4825

(p)PACCAR FINANCIAL CORP
P O BOX 1518
BELLEVUE WA 98009-1518

Paccar Financial Corporation
P. O. Box 676014
Dallas, TX 75267-6014

Robert Barrows
Warren Drugan & Barrows, PC
800 Broadway
San Antonio, TX 78215-1517

U. S. Attorney/IRS
601 N. W. Loop 410, Suite 600
San Antonio, Texas 78216-5512

U. S. Trustee
615 E. Houston St. Room 533
San Antonio, Texas 78205-2055

U.S. Trustee
315 E. Houston Street #533
San Antonio, TX 78205

United States Trustee - SA12
US Trustee's Office
615 E Houston, Suite 533
PO Box 1539
San Antonio, TX 78295-1539

Wells Fargo Bank
c/o John P. Kincade
500 Winstead Building
2728 N. Harwood Street
Dallas TX 75201-1516

Wells Fargo Equipment Finance Inc
1540 W. Fountainhead Parkway
Tempe AZ 85282-1839

Dean William Greer
2929 Mossrock, Suite 117
San Antonio, TX 78230-5141

Edward M Lavin
8918 Tesoro Dr #418
San Antonio, TX 78217-6220

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).

Ford Motor Credit Company LLC
Dept. 55953, P.O. Box 55000
Detroit, MI 48255

Internal Revenue Service
P. O. Box 21126
Philadelphia, PA 19114

PACCAR Financial Corp.
c/o Linda Markle
P.O. Box 1518
Bellevue, Washington 98009-1518

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

(d)Bexar County
c/o Don Stecker
711 Navarro, Suite 300
San Antonio, TX 78205-1749

End of Label Matrix
Mailable recipients 39
Bypassed recipients 1
Total 40