

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re:)	Case No. 15-30554
)	Chapter 11 Bky.
C Company General Contractors, LLC,)	NOTICE AND
)	MOTION TO SELL TOOLS AND
Debtor.)	EQUIPMENT FREE AND CLEAR
)	OF LIENS AND ENCUMBRANCES

C Company General Contractors, LLC (DIP), by and through its attorney, and verified by its managing member Seth Church, respectfully requests the Court issue an order authorizing the DIP to sell its tools and equipment free and clear of liens and encumbrances. The DIP makes the following allegations:

1. The DIP presently does not operate and is incapable of operating. At this point it is highly unlikely that liquidation of the debtor under any scenario will result in a distribution to unsecured creditors. Virtually all of the debtor's assets are pledged and at this point it is highly unlikely that post-filing assets will be sufficient to pay all administrative costs of the DIP. No unsecured creditor's committee has been appointed.

2. The DIP has literally a thousand individual items of tools and equipment. Seth Church, the managing member of the DIP has contacted several auctioneers in an attempt to find a means to liquidate the remaining tools and equipment of the company. Only one auctioneer has responded with any interest. That particular auctioneer indicated that given the expenses and the fees and the depressed market for these items in Western North Dakota, an auction sale would be a distress sale and the DIP might be fortunate to net after expenses of sale, \$5,000 to \$10,000 out of its remaining tools and equipment. Auction sale of the tools and equipment would likely be as individual pieces for the most valuable items, but many other items would likely be "bundled" and sold in combination with several other items that might bring \$1 to \$100. Many of those individual items, if sold individually and privately might bring as much the bundled items.

3. The most valuable items are on the attached list. Those items would be sold by the DIP for not less than the price indicated and hopefully more. If this motion is granted, Mr. Church would be granted the opportunity to negotiate the precise sale price of each individual item. DIP requests that it be permitted to sell all tools and equipment by private sale negotiated by Seth Church. Mr. Church will maintain a log of each item sold, to whom sold (including address and phone number), and price received, and obtain receipts for all sales. Upon completion of the sales, but not less than every two weeks, and upon conversion or dismissal of the case, DIP shall file a report of sale of disclosing all sales.

4. The DIP requests that the sale of the tools and equipment be made free and clear of liens and encumbrances. Those liens and encumbrances include, but are not limited to:

- a. UCC's filed with the ND Secretary of State in favor of People's United Finance Corp. of Charlotte, NC against C Company General Contractors, LLC on December 3, 2012, File No. 12-000788311-9, on January 17, 2014 File No. 14-000882829-8, on February 26, 2014, File No. 14-000891481-7.
- b. UCC's filed with the ND Secretary of State in favor of Commercial Credit Group against C Company General Contractors, LLC on July 17, 2013, File No. 13-000843958-0, November 5, 2013, File No. 13-000867502-0, on January 10, 2014, File No. 14-000880626-9, January 10, 2014, File No. 14-000880628-1, on December 26, 2014, File No. 14-000953435-3, (By virtue of its settlement with DIP, this creditor has withdrawn the balance of any unpaid claim it may have.) on December 26, 2014, File No. 14-000953444-4.
- c. Internal Revenue Service federal tax lien filed on November 16, 2015, File No. 15-001021411-3, on November 18, 2015, File No. 15-001021864-0.

To the extent the liens exist, those liens shall attach to the sale proceeds.

5. To the debtor-in-possession's knowledge, after a thorough and diligent search, no liens or encumbrances other than those described above, exist against these tools and equipment. The debtor-in-possession alleges that the sale price of the tools and equipment are insufficient to pay all liens against the property, but each of the lienholders will consent to the sale or can be compelled to accept a money satisfaction of its interest. The debtor-in-possession may sell the property free of the liens and encumbrances pursuant to 11 U.S.C. 363(f), which provides:

(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-

...
(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;

...
(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

The debtor-in-possession meets the requirements of each of these sections and is authorized to sell the tools and equipment free and clear of the liens identified.

6. The debtor-in-possession further moves the Court that it be authorized to distribute the sale proceeds as follows:

- a. To People's United Equipment Finance any sum up to the balance due it under the settlement agreement previously made, and anything beyond that into a segregated accounts subject to the liens herein avoided. But DIP may deposit into the segregated account, a sum sufficient to pay costs of this sale, and subject to later application to surcharge these assets, pursuant to 11 U.S.C. § 506(c).
- b. Debtor shall report any disbursement of funds at or before disbursement, to the secured creditors and United States Trustee and maintain a log of all disbursements, and upon completion of sales, shall include in the report of sale all disbursements of those funds and funds remaining on hand.

7. The debtor-in-possession alleges that any tax consequence will not affect the bankruptcy estate, the DIP cannot avoid any tax consequence irrespective of how the property is sold.

8. The debtor-in-possession respectfully requests that the Court issue an order authorizing the sale of the tools and equipment of the DIP, free and clear of liens and that the sale proceeds be distributed as requested.

VERIFICATION

I, Seth Church, managing member of C Company General Contractors, LLC, under the laws of the United States state that the foregoing is true and correct according to the best of my knowledge.

DATED: 5/26/2016



Seth Church/Managing Member
Of C Company General Contractors, LLC

Notice of Motion: Your rights may be affected in this action. You should read these papers carefully and discuss the matters with your attorney if you have one. If you want the court to consider your views you should mail a written response to the action, within 21 days of the date of mailing of this document, and file the response with the Clerk of Bankruptcy Court and a copy served upon the U.S. Trustee and debtor-in-possession through its attorney. If you do not take this step the court may assume that you do not oppose the action and the court may enter an Order approving the request made in these legal documents.

Clerk, U.S. Bankruptcy Court
Quentin N. Burdick U.S. Courthouse
655 First Ave. N. – Suite 210
Fargo, ND 58107-4932

United States Trustee
314 South Main Ave.
Suite 303
Sioux Falls, SD 57104-6462

Debtor's Attorney
(See address
below)

DATED: 5/26/2016

/s/ Kip M. Kaler

Kip M. Kaler (ND Atty. #03757)

KALER DOELING, PLLP

Attorney for Debtor-In-Possession

3429 Interstate Blvd.

Fargo, ND 58103

(701) 232-8757

kip@kaler-doeling.com

Equipment

Year	Type	Price	Lien
2012	PJ Trailer	\$6,000.00	Sheffield Financial
	Tag-along trailer	\$1,000.00	
2011	Office/tool trailer	\$6,000.00	
	Genie TML-4000N Light Plant	\$1,000.00	
	Genie TML-4000N Light Plant	\$1,000.00	
	300 Gallon Fuel Tank/pump with too	\$150.00	
	300 Gallon Fuel Tank/pump with too	\$150.00	
	300 Gallon Fuel Tank	\$100.00	
	300 Gallon Fuel Tank	\$100.00	
	Water tank	\$150.00	
	Water tank	\$150.00	
2012	Flatbed	\$500.00	
2012	Rollair compressor	\$250.00	
2012	Rollair compressor	\$250.00	
2012	Rollair compressor	\$250.00	
	Generator	\$250.00	
	Generator	\$250.00	
	Lincoln Welder	\$3,000.00	
	Hobart welder	\$250.00	
	Water Pump	\$150.00	
	Sked Board	\$250.00	
	Safety tri-stand & winch	\$250.00	
	Projector	\$250.00	
	Safety fans	\$150.00	
	Visio flat screen tv	\$100.00	
	Master heater	\$100.00	
	Miscileneous Lots of Items		
	Hoses	\$100.00	
	Tubes	\$100.00	
	Fittings	\$100.00	
	Fall protection equipment	\$100.00	
	FR rain gear	\$100.00	
	Pipe wrenches	\$100.00	
	Power tools	\$100.00	
	Pneumatic tools	\$100.00	
	Sockets & wrenches	\$100.00	
	Nails & fasteners	\$100.00	
	Desks & office furniture	\$100.00	
	Safety supplies	\$100.00	

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

In re:)	Case No. 15-30554
)	Chapter 11 Bky.
)	
C Company General Contractors, LLC,)	
)	CERTIFICATE OF SERVICE
)	
Debtor.)	
_____)	

Kip M. Kaler of Fargo, ND, swears that on May 26, 2016, he served via U.S. Mail and electronically at the given U.S. postal address and/or e-mail address a copy of the following:

NOTICE AND MOTION TO SELL TOOLS AND EQUIPMENT FREE AND CLEAR OF LIENS AND ENCUMBRANCES

to the parties listed below:

- Robert T. Bonsignore rbonsignore@puefc.com, gclancy@puefc.com
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- T. Randall Wright rwright@bairdholm.com, cochs@bairdholm.com

See attached Mailing Matrix.

/s/ Kip Kaler
Kip M. Kaler

Label Matrix for local noticing
0868-3
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