

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	Case No.: 16-10404-tmd
	§	
GARY DEAN ROGERS	§	(Chapter 11)
a/k/a G D Rogers,	§	
d/b/a Rogers Construction,	§	
d/b/a Rogers General Construction	§	
	§	
Debtor.	§	

**DEBTOR’S MOTION FOR AUTHORITY TO SELL PROPERTY OF THE ESTATE
FREE AND CLEAR OF ALL INTERESTS PURSUANT TO 11 U.S.C. §§ 363(b) AND
363(f) WITH VALID LIEN(S) TO ATTACH TO THE SALE PROCEEDS AND ALL
OTHER NORMAL AND CUSTOMARY CLOSING COSTS AND FEES AT CLOSING**

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within 21 days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

TO THE HONORABLE TONY M. DAVIS, UNITED STATES BANKRUPTCY JUDGE:

Gary Dean Rogers (the “*Debtor*”), the debtor in the above-captioned bankruptcy case (the “*Bankruptcy Case*”) moves the Court for an order approving the sale of property of the estate free and clear of all interests pursuant to 11 U.S.C. §§363(b) and 363(f), with valid lien(s) (if any) to attach to the sale proceeds, and to pay all other normal and customary closing costs and fees (if any) at closing, and shows:

SUMMARY OF RELIEF REQUESTED

1. The Debtor seeks authority to sell the Debtor’s interest in various items of personal property, including vehicles, as more fully described on **Exhibit “A”** attached hereto, (the “***Property***”) to Eddie Johnson or his designee (the “***Buyer***”).

2. The Buyer has offered to purchase the Property for cash upon approval of the proposed sale by this Court.

3. The total purchase price for the Property shall be One Hundred Forty Three Thousand Six Hundred Dollars and Zero Cents (\$143,600.00) (the “***Purchase Price***”). The sale shall be “as is, where is, with no representations or warranties of any kind, express or implied.”

4. The Debtor is unaware of any consensual liens on the Property. At closing the Debtor seeks authority to pay all normal and customary closing costs and fees, if any.

5. In the exercise of his business judgment, the Debtor has determined that the proposed sale to Buyer, is, at present, the highest and best offer under the circumstances and will maximize the value to the estate.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This Court may hear and determine this Motion under the standing order of reference issued by the United States District Court for the Western District of Texas under 28 U.S.C. § 157. Consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b). Venue of this proceeding is proper in this district under 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

7. On April 4, 2016 (the “*Petition Date*”), the Debtor filed his voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the “*Bankruptcy Code*”), thereby initiating his Bankruptcy Case and creating his bankruptcy estate (the “*Estate*”).

8. The Debtor remains in possession of his property and is operating his business as a debtor-in-possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed.

9. On June 8, 2016, an unsecured creditor committee was appointed in the Debtor’s case. [See Docket No. 58]. Based upon conversations with counsel for the Unsecured Creditors Committee (the “UCC”), the UCC supports this Motion and the proposed sale.

10. The Debtor owns the personal property described on **Exhibit “A.”** All of the Property is used, and the majority of it was formerly utilized in the Debtor’s oilfield services business.

11. The Property, which the Debtor is requesting authority to sell, is non-income producing.

PROPOSED SALE

12. The Debtor requests that the Court approve the sale to the Buyer. The sale will be made free and clear of all liens, claims, interests and encumbrances (if any) pursuant to 11 U.S.C. § 363(f). The sale shall be made “as is, where is” with no representations or warranties of any kind.

13. The Debtor has not employed a broker or agent to facilitate the sale of the Property, and no commissions or other fees will be due when the Property is sold.

14. In evaluating such a sale, a court must balance the need for flexibility with the concern of the affected creditors. *In re Terrace Gardens Park Partnership*, 96 B.R. 707, 715 (Bankr. W.D. Tex. 1989). The Court must also determine that creditor's lien rights are adequately protected and that the offer price is the highest price obtainable under the circumstances in the particular case. *Id.*; *In re Beker Indus. Corp.*, 63 B.R. 474, 477-78 (Bankr. S.D.N.Y. 1986).

15. The Debtor believes that the proposed sale is the best available option to obtain the maximum value for the Estate's interest in the Property. The Debtor believes in his business judgment that the sale of the Property is in the best interest of the Estate and the best interest of the creditors. The Debtor will not pay any disputed liens at closing, if any.

16. In the exercise of its business judgment, the Debtor has determined that the proposed sale to Buyer is, at present, the highest and best offer under the circumstances and will maximize the value to the estate.

WHEREFORE, the Debtor prays that the Court approve the Motion as set forth above by entering an Order (i) approving the sale to Eddie Johnson or his designee pursuant to the terms of this Motion, (ii) to pay customary closing fees and costs at closing, and (iii) for other such relief as the Debtor may be entitled.

DATED this 20th day of April, 2017.

Respectfully submitted,

/s/ Simon Mayer

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**BANKRUPTCY COUNSEL FOR
GARY DEAN ROGERS**

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Debtor's Motion for Authority to Sell Property of the Estate Fee and Clear of All Interests Pursuant to 11 U.S.C. §§ 363(b) and 363(f) with Valid Liens(s) to Attach to the Sale Proceeds and All Other Normal and Customary Closing Costs and Fees at Closing* to the parties listed on the attached service list by ECF notification and/or United States first class mail, postage prepaid on this the 20th of April, 2017.

/s/ Simon Mayer

Simon Mayer

Designated Property			
Equipment and Vehicles		Year	Offer
Dodge Ram 2500 VIN: 1B7KF26C3TJ143818	Schedule A/B: 3.1	1996	\$3,000.00
Jeep VIN: 1J4FY19SXVP539134	Schedule A/B: 3.2	1997	\$1,800.00
Jeep VIN: 1J4FY19S1XP446487	Schedule A/B: 3.3	1999	\$1,800.00
Cadillac CP ETC VIN: 1G6ET12972B101335	Schedule A/B: 3.4	2002	\$1,700.00
Chevrolet C4500 VIN: 1GBE4E1163F511281	Schedule A/B: 3.5	2003	\$2,000.00
Dodge Ram Crew Cab 1/2 T VIN: 1D7HA18N93S143663	Schedule A/B: 3.6	2003	\$1,000.00
Chevrolet 2500 4 x 4 VIN: 1GCHK23254F263352	Schedule A/B: 3.7	2004	\$1,500.00
Chevrolet 1500 VIN: 1GCEK19B25E153080	Schedule A/B: 3.8	2005	\$1,500.00
Chevrolet 2500 3/4T VIN: 1GCHK29K18E216032	Schedule A/B: 3.14	2008	\$2,500.00
GMC 1500 Crew VIN: 2GTEC13J381177083	Schedule A/B: 3.15	2008	\$3,000.00
GMC 2500 Fuel VIN: 1GTHK43689F150548	Schedule A/B: 3.17	2009	\$1,000.00
GMC 1500 Crew 4 x 4 VIN: 3GTP2UEA4BG314816	Schedule A/B: 3.18	2011	\$3,500.00
GMC 2500 Crew 4 x 4 VIN: 1GT12ZCG5BF245694	Schedule A/B: 3.19	2011	\$3,500.00
GMC 1500 Ext 4 x 4 VIN: 1GTR2UEAXBZ255781	Schedule A/B: 3.20	2011	\$1,000.00
Dodge Ram 2500 Mega Cab VIN: 3D7UT2HLOBG619401	Schedule A/B: 3.21	2011	\$10,000.00
GMC Sierra VIN: 1GT21ZC2C2116402	Schedule A/B: 3.23	2012	\$2,500.00
GMC Sierra 1500 VIN: 3GTP2TE7XCG115320	Schedule A/B: 3.24	2012	\$3,500.00
GMC Sierra 1500 VIN: 3GTP2TE76CG206374	Schedule A/B: 3.25	2012	\$3,500.00
Dodge Ram 1500 VIN: 1C6RR7FT4ES281942	Schedule A/B: 3.26	2014	\$10,000.00
Mack Dump Truck VIN: 1M1N179YQJW009400	Schedule A/B: 3.27	1988	\$500.00
Big Dog Ridge-Back VIN 5J11RBJ146W000019	Schedule A/B: 3.31	2006	\$5,000.00
International Dump Truck VIN 1HSHBPPN5PH5054621	Schedule A/B: 3.35	1993	\$2,500.00
GMC Water Truck VIN 1GDE6D1B9KV518217	Schedule A/B: 3.36	1989	\$1,500.00
2013 Hanco VIN 51FDG2020DG002670	Schedule A/B: 40	2013	\$4,000.00
New Backhoe B-95 Backhoe, NAGH00582	Schedule A/B: 40-Continuation Page		\$6,000.00
2006 KTM Mule #3530	Schedule A/B: 49	2006	\$1,500.00
2010 Polaris Razor 4 #2402	Schedule A/B: 49	2010	\$5,000.00
2011 Polaris Razor 4 #6713	Schedule A/B: 49	2011	\$5,000.00
White Polaris #5912	Schedule A/B: 49	?	\$4,000.00
Equipment Listed on Exhibit B			
2005 Cat 963C Track #BBD1288	Schedule A/B: 40 - Exhibit B	2005	\$2,000.00
2006 Kearney Flatbed Vin:5LCNF402X61007986	Schedule A/B: 40 - Exhibit B	2006	\$2,000.00
2007 Big Tex Utility #7482-GNeck	Schedule A/B: 40 - Exhibit B	2007	\$800.00
2010 Homemade with Mobile Wash	Schedule A/B: 40 - Exhibit B	2010	\$1,000.00
2010 Homemade with Welder	Schedule A/B: 40 - Exhibit B	2010	\$1,000.00
2012 PJTR UT Trail Power Wash #4P5U71227C2176415	Schedule A/B: 40 - Exhibit B	2012	\$1,000.00
2013 Kearney Trailer Vin: 5LCLB1827D1029091	Schedule A/B: 40 - Exhibit B	2013	\$1,500.00
2013 Kearney Trailer Vin: 5LCLB1824D1029176	Schedule A/B: 40 - Exhibit B	2013	\$1,500.00
Man Lift Genie GR15 S/N 17955	Schedule A/B: 40 - Exhibit B		\$500.00
2011 Bruton Easy Pull Trailer Vin: TR800340811	Schedule A/B: 40 - Exhibit B	2011	\$1,500.00
CAT-287C Skid Steer Loader # MAS01812	Schedule A/B: 40 - Exhibit B		\$7,000.00
1980 Holden Lowboy #HLB392350791 Yellow	Schedule A/B: 40 - Exhibit B	1980	\$1,500.00
2000 CAT 140H Blade #22K05175	Schedule A/B: 40 - Exhibit B	2000	\$20,000.00
Watercraft			
Yamaha 125 G3 Fishing Boat	Schedule A/B: 4.5	2013	\$9,000.00
Total:			\$143,600.00