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IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF UTAH

In re:)	Bankruptcy No. 15-25181 KRA
)	Chapter 11
Gloyd W. Green,)	
)	[Filed Electronically]
Debtor.)	
)	
)	
)	MOTION FOR APPROVAL
)	OF SALE OF GUN
)	COLLECTION AND BIDDING
)	PROCEDURES
)	

Gloyd W. Green (the “**Debtor**”), by and through counsel and pursuant to the Debtor’s Amended Plan of Reorganization dated February 24, 2016 (the “**Plan**”), ¶5.1.3 [Docket no. 120, page 35 of 51], as well as the provisions of 11 U.S.C. §363 and Bankruptcy Rules 2002 and 6004, hereby moves the Court (the “**Motion**”) for entry of an order approving the sale of the Debtor’s gun collection (described more particularly below) free and clear of all liens, encumbrances, and interests, with all such liens, encumbrances and interests to attach to the proceeds of sale (other than the security

interest of the Buyer, which will be paid in full through a credit against the purchase price in the event the Buyer is the Successful Bidder), and approving procedures for bidding and auction. Terms of the sale are summarized below and set forth in full in an Offer to Purchase which is attached hereto as **Exhibit A** (the “**Offer**”). Unless otherwise indicated, defined terms set forth herein shall have the meanings ascribed to them in the Plan.

1. Summary of Terms of Proposed Sale

Subject to the receipt of higher and better offers, the Debtor proposes to sell his **Gun Collection** (as defined in ¶1.44 of the Plan and as described in Attachment 1 to Schedule B of the amended Schedules [Docket no. 65], a copy of which is attached to the Offer), to Sherrel West (the “**Buyer**”) for a purchase price of \$12,403.00 (the “**Purchase Price**”) upon the terms and conditions set forth in the Offer. In summary, the pertinent terms and conditions are as follows:

1. Buyer will pay the Purchase Price as follows: \$6,000.00 in cash at closing, and the remaining \$6,403.00 through an offset of the Buyer’s Class A-4 Secured Claim in accordance with 11 U.S.C. §363(k).
2. The 3 guns identified as exempt in Attachment 1 (which is attached to the Offer) are not included in the sale.
3. The Gun Collection will be sold in an “as is, where is” condition, without representation or warranty as to the condition or value of the guns.

2. Proposed Bidding Procedures

The Debtor asks the Court to approve the following bidding procedures for the sale of the Gun Collection, which bidding procedures will be included by the Debtor in the notice of hearing on the Motion:

1. All competing offers or bids for the Gun Collection must be in writing and must be received by the Debtor's counsel, at the address set forth at the top of page one of this Motion, no later than **5:00 p.m. on January 10, 2017**.
2. A "**Qualified Bidder**" shall be any bidder who submits a competing offer to Debtor's counsel on or before the foregoing deadline, and any competing offer so submitted shall be a "**Qualified Bid**."
3. In the event that a Qualified Bid is not received by Debtor's counsel, Debtor will ask the Court to approve the sale to the Buyer on the terms set forth in the Offer at the hearing on the Motion, which will take place on **January 17, 2017** at the hour of **2:00 p.m.**
4. In the event that a Qualified Bid is received by Debtor's counsel, Debtor's counsel shall conduct an auction (the "**Auction**") of the Gun Collection. The Auction shall take place at **10:30 a.m. on January 12, 2017**, in the lobby near the ground floor elevators on the south end of the Bankruptcy Court at 350 South Main Street, Salt Lake City, Utah. The auction will be limited to the Buyer and all Qualified Bidders and their authorized representatives.

5. Debtor's counsel will conduct the Auction by announcing the highest or best Qualified Bid. The Auction will then be opened to competing bids. Debtor's counsel will entertain competing bids for the Gun Collection in such successive rounds as Debtor's counsel determines in his sole discretion to be appropriate so as to obtain the highest and best bid for the Gun Collection. Debtor's counsel may also set opening bid amounts in each round of bidding as Debtor's counsel determines to be appropriate.
6. At the Auction, the Debtor and his counsel will review each bid on the basis of financial and contractual terms and the factors relevant to the sale process, including the speed and certainty of closing the sale, and then identify the person submitting the highest and best offer for the Gun Collection (the "**Successful Bidder**" and the "**Successful Bid**").
7. Debtor will present the Successful Bid to the Court for approval at the hearing on the Motion, which will be conducted at **2:00 p.m.** on **January 17, 2017**.

3. Memorandum of Law

1. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§1334 and 157.
2. The Motion is a core proceeding within the meaning of 28 U.S.C. §§157(b)(2)(A), (N) and (O).
3. Venue is proper under 28 U.S.C. §§1408 and 1409.

4. The statutory predicate for the relief sought in the Motion is set forth in 11 U.S.C. §§363(b), (f) and (k).

4. Background

1. The Debtor filed his voluntary petition for relief under Chapter 11 of the Bankruptcy Code on June 3, 2015.
2. The Plan was confirmed by order entered April 19, 2016 [Docket no. 120].
3. The Buyer is the Debtor's sister.
4. The Debtor is selling the Gun Collection as a single unit rather than selling the guns individually in order to save the auctioneer's fee.
5. The Debtor has contacted three local gun dealers (including the two dealers who participated in providing the values in Attachment 1) and is giving notice of the sale to them and to the auctioneer Rob Olson.
6. The Debtor believes the values in Attachment 1 represent the fair market value of the Gun Collection.
7. The Offer exceeds the total value in Attachment 1.
8. In the Debtor's business judgment, and subject to the receipt of higher and better offers in accordance with the bidding procedures set forth in the Motion, the Purchase Price, on the terms and conditions in the Offer, is fair and reasonable and represents fair market value for the Gun Collection.

9. In the Debtor's business judgment, the sale of the Gun Collection for the Purchase Price or for a higher and better price in the event of an Auction, is in the best interests of the Debtor and the creditors.

5. Relief Requested

1. The Debtor requests entry of an order authorizing the Debtor to sell the Gun Collection to the Buyer, or to a Qualified Bidder in the event of an Auction, free and clear of all liens, claims, encumbrances, and interests, with all such liens and interests attaching to the proceeds of sale (other than the security interest of the Buyer, which will be paid in full through a credit against the purchase price in the event the Buyer is the Successful Bidder), either for the Purchase Price on the terms and conditions set forth in the Offer, or for the amount of the Successful Bid upon the terms and conditions accepted by the Debtor at the Auction.
2. The Debtor further moves the Court to approve the auction procedures set forth herein and to authorize the Debtor to sell the Gun Collection to the Buyer on the terms and conditions set forth in the Offer or, in the event that a Qualified Bid is submitted, to the Successful Bidder.
3. Finally, the Debtor requests the Court to waive the fourteen day stay otherwise imposed by Bankruptcy Rule 6004(h), based on the need and desire of the Buyer or Successful Bidder to take possession of the Gun Collection and provide their own insurance for it.

6. Basis for Relief Requested

1. Pursuant to 11 U.S.C. §§363(b) and 1107, and subject to the requirement of prior notice and a hearing, the Debtor is empowered to sell property of the estate.
2. The proceeds of sale will be used to satisfy the Class A-4 Secured Claim in the amount of \$6,403.00, and the remaining proceeds of sale will be deposited into the Plan Payment Account for distribution in accordance with the Plan.
3. Section 363(f) of the Code authorizes the sale of the Gun Collection free and clear of interests of entities other than the bankruptcy estate (such as liens and encumbrances) 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. In this case, condition (3) is met with respect to the interest of the Class A-4 Secured Claim because the Purchase Price exceeds the payoff on the Class A-4 Secured Claim.
4. Pursuant to Bankruptcy Rule 6004(h), an order approving the sale of property of the estate is stayed for a period of fourteen days unless otherwise ordered by the court. Cause exists in the instant case to order otherwise. The Buyer, or the Successful Bidder in the event of an Auction, will want to take immediate possession of the Gun Collection and provide their own insurance for it. In

addition, as stated in the 1999 Advisory Committee Note to Rule 6004, the purpose of Rule 6004(h) is to “provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale or lease of property before the order is implemented.” Accordingly, if no one objects to the Motion, then the stay would serve no purpose and should be waived.

5. Prayer for Relief

ACCORDINGLY, based on the foregoing, the Debtor requests entry of a order providing as follows:

1. Granting the Motion;
2. Authorizing the Debtor to sell the Gun Collection free and clear of all liens, claims, encumbrances, and interests, with all such to attach to proceeds of sale, to the Buyer for the Purchase Price and on the terms and conditions set forth in the Offer or, if a Qualified Bid is submitted, then to the Successful Bidder for the amount of the Successful Bid and on the terms and conditions accepted by the Debtor at the Auction;
3. Authorizing the Debtor to pay at closing all amounts needed to satisfy in full the Class A-4 Secured Claim, and deposit all remaining proceeds of sale in the Plan Payment Account for distribution in accordance with the Plan;
4. Authorizing the bidding procedures and the Auction as outlined above, and authorizing the Debtor to sell the Gun Collection to the Successful Bidder for the amount of the Successful Bid in the event of an Auction;

5. Waiving the fourteen-day stay otherwise imposed by Bankruptcy Rule 6004(h) so that the sale can be closed immediately after the order authorizing the sale has been entered; and
6. Granting such other and further relief as may be appropriate.

DATED this 15th day of December 2016.

/s/ Chris L. Schmutz
Chris L. Schmutz, for
SCHMUTZ & MOHLMAN, LLC
Attorneys for Debtor

OFFER TO PURCHASE

I, Sherrel West, hereby offer to purchase from Gloyd W. Green, the reorganized debtor in Bankruptcy No. 15-25181, United States Bankruptcy Court for the District of Utah (the "Debtor"), the Gun Collection as defined in the Debtor's confirmed Plan of Reorganization (the "Plan") and as listed on **Exhibit A** attached hereto, in accordance with and subject to the following terms and conditions:

1. I will pay the Debtor \$12,403.00 for the Gun Collection, consisting of \$6,000.00 in cash and \$6,403.00 as a credit bid against the Class A-4 Secured Claim described in the Plan.
2. I understand that the 3 guns identified as exempt in **Exhibit A** are not included in the sale.
3. I understand that my offer is subject to the approval of the Bankruptcy Court and will be subject to higher and better offers.
4. I understand that I am offering to purchase the Gun Collection without representation or warranty of any kind as to the condition or value of the guns, which are being sold "as is" and "where is."

DATED this 13th day of December, 2016.



Sherrel West

GLOYD W. GREEN
Schedule B
Attachment 1

<u>Gun Collection</u>	<u>Appraised Value</u>
3006 US 1917 Infield	125
22 Semi-automatic Browning	275
22 Winchester Pump	300
12-Gauge Single-Shot Stevens	50
22 Lever Action Winchester	100
22 Bolt Action Remington	100
3030 Winchester Rifle	600
243 Browning Lever Action	350
3006 Infield	75
12-Gauge Ithaca Pump	EXEMPT UNDER U.C.A. 78B-5-505(1)(A)
22 Winchester Pump Old	250
12-Gauge Savage Semi-automatic	100
3006 Browning 1895	1000
3006 Winchester 1895	600
300 Weatherby	600
3" Mag Browning Semi-Automatic	600
3006 BSA Bolt Action	150
3006 Johnson Semi-Automatic	EXEMPT UNDER U.C.A. 78B-5-505(1)(A)
12-Gauge Pump	25
22 Weatherby Semi-Automatic "Scope"	300
Winchester "1966 Centennial"	600
Winchester "John Wayne"	600
22 Browning Lever Action	300
22 Browning Semi-Automatic	50
357 Colt Python 2" Barrel	800
357 Rugar Single Six "6 Barrel"	300
22 High Standard Pistol	175
22 High Standard Pistol	50
357 Colt Python 6" Barrel	1000
22 Rugar Single Six	250
45 Colt Dakota Calif	300
45 Sam Colt	EXEMPT UNDER U.C.A. 78B-5-505(1)(A)
22 Mitchell Semi-Automatic	300
22 Colt Semi-Automatic Match Target	400
45 Colt	400
45 Colt Combat Commander	350
Montgomery Ward & Co. 10-Gauge	75
Orson Yorgason Double Barrel	0
TOTAL ESTIMATED VALUE:	11550