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IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH

)	Bankruptcy No. 15-25181 KRA
)	Chapter 11
)	
In re:)	
)	[Filed Electronically]
Gloyd W. Green,)	
)	
Debtor.)	
)	AMENDED MOTION FOR
)	APPROVAL OF SALE OF
)	GUN COLLECTION BY
)	PUBLIC AUCTION
)	
)	
)	
_____)	

Gloyd W. Green (the “**Debtor**”), by and through counsel and pursuant to the provisions of ¶5.1.3 of the Debtor’s Amended Plan of Reorganization dated February 24, 2016 (the “**Plan**”) [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) through a public auction, such sale to be free and

clear of all liens, claims, encumbrances, and interests, with all such liens, claims, encumbrances and interests to attach to the proceeds of sale. Unless otherwise indicated, defined terms set forth herein shall have the meanings ascribed to them in the Plan.

1. Summary of Terms of Auction

The Debtor proposes to sell his **Gun Collection**, as defined in ¶1.44 of the Plan and as identified in Attachment 1 to Schedule B of the amended Schedules [Docket no. 65], at a public auction. A copy of Attachment 1 is attached hereto. The Debtor has recently learned that one of the guns identified on Attachment 1 -- the second gun on the list, described as a "22 Semi-automatic Browning" valued at \$275 -- is missing. The Debtor does not know what happened to this gun, but has referred the loss of the gun to the Estate Representative as a Claim for investigation in accordance with ¶5.5 of the Plan. The Gun Collection will be sold through a public auction to be conducted by the firm of Erkelens and Olson beginning at **10:00 a.m. on February 25, 2017** at the auction firm's gallery located at **430 West 300 North, Salt Lake City, Utah**. The guns will be sold in an "as is, where is" condition, without representation or warranty as to the condition or value of the guns. As provided in ¶5.1.3 of the Plan, the three guns identified as exempt on Attachment 1 will not be sold at the auction and instead will be delivered to the Debtor and retained by him, unless otherwise ordered by the Court. The Debtor intends, if approved by the Court, to allow the holders of the Class A-4 Secured Claim, in the amount of \$6,403, to credit bid their Claim at the auction. The

Class A-4 Claim holders are Terry and Sherrel West. Sherrel West is the Debtor's sister. The Class A-4 Claim is secured by the guns in the Gun Collection. The auction company will make a full report of the sale and will be paid a commission in the amount of 15% of the gross sales proceeds. All Net Proceeds of sale will be deposited into the Plan Payment Account for distribution in accordance with the provisions of the Plan. Anyone wishing to view the guns may do so through the auction firm's website, www.salesandauction.com, or in person at a preview to be held at the firm's gallery located at 430 West 300 North, Salt Lake City, Utah, on February 24, 2017, between 10:00 a.m. and 4:00 p.m.

2. 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).
5. Pursuant to 11 U.S.C. §363(b), and subject to the requirement of prior notice and a hearing, the Debtor is empowered to sell property of the estate.
6. 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 cumulative price at which the guns will be sold at auction will exceed the payoff on the Class A-4 Secured Claim.

7. Under 11 U.S.C. §363(k), the holder of an allowed secured claim may bid on the property that is subject to the secured claim of such holder at a sale held under §363(b), and if the holder purchases such property, the holder may offset the claim against the purchase price, unless the court for cause orders otherwise. The Debtor believes the Class A-4 Claim is an allowed secured claim within the meaning of §363(k), because under ¶1.4.1 of the Plan the fact that the Class A-4 Claim was listed in the Debtor's Schedules and was not designated as disputed, contingent or unliquidated makes it an Allowed Secured Claim.
8. 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 buyers at the auction will want to take immediate possession of the guns they purchase. 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.

3. Prayer for Relief

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

1. Granting the Motion;
2. Authorizing the Debtor to sell the Gun Collection through a public auction to be conducted by the firm of Erkelens and Olson as outlined above, free and clear of all liens, claims, encumbrances, and interests, with all such to attach to proceeds of sale;
3. Authorizing the Debtor to retain the three guns identified as exempt on Attachment 1;
4. Authorizing the holders of the Class A-4 Secured Claim to credit bid their claim at the public auction;
5. Authorizing the Debtor to pay the auction company a commission in the amount of 15% of gross proceeds of sale;
6. Requiring the auction company to make a full report of the auction sale;

7. Requiring the Debtor to deposit all Net Proceeds of sale in the Plan Payment Account for distribution in accordance with the Plan;
8. Waiving the fourteen-day stay otherwise imposed by Bankruptcy Rule 6004(h) so that the guns can be delivered to buyers at the auction upon their payment of the auction sales price; and
9. Granting such other and further relief as may be appropriate.

DATED this 3rd day of February 2017.

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

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