

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

BROEGE NEUMANN FISCHER & SHAVER, L.L.C.
25 Abe Voorhees Drive
Manasquan, NJ 08736
(732) 223-8484
Attorneys for Debtor-in-Possession
Peter J. Broege, Esq.
PB 9313

In Re:

LaConti Concrete & Masonry, Inc.

Debtor-in-Possession

Case No. 15-22806

Chapter: 11

Hearing Date: September 19, 2016

Judge: Honorable Michael B. Kaplan

NOTICE OF MOTION FOR ORDER AUTHORIZING THE DEBTOR-IN-POSSESSION TO CONDUCT AUCTION SALE OF VEHICLES, MACHINERY AND EQUIPMENT AND FOR APPROVAL OF PRIVATE SALE OF CERTAIN VEHICLES AND EQUIPMENT FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363(b) and (f) AND APPROVING CARVE OUT

TO: Parties Listed on Certification of Service

PLEASE TAKE NOTICE that on September 19, 2016, 2016 at 10:00 a.m. or as soon thereafter as counsel may be heard, the undersigned attorneys for the Debtor and Debtor in Possession herein, shall move before the Honorable Michael B. Kaplan, United States Bankruptcy Court, 402 East State Street, Trenton, New Jersey for an order authorizing the Debtor-in-Possession to conduct a public auction sale of certain vehicles, machinery and equipment as well as to approve certain private sales of vehicles and equipment and approving administrative carve out from the proceeds for the benefit of the estate.

Notice of the proposed public auction sale which is attached as Exhibit A to the Debtor-in-Possession's certification has been sent to all creditors and parties in interest.

Notice of the proposed private sale, attached as Exhibit B to the Debtor-in-Possession's certification has been sent to all creditors and parties in interest.

The proposed sales shall be free and clear of liens, claims, and encumbrances pursuant to 11 U.S.C. § 363(b) and (f) and Federal Rule of Bankruptcy Procedure 6004(a) pursuant to the Debtor-in-Possession's agreement with the United States of America – Internal Revenue Service.

PLEASE TAKE FURTHER NOTICE that in support of this motion, the undersigned shall rely upon the certification of the Debtor-in-Possession and supporting letter brief filed contemporaneously herewith and oral argument of counsel, if necessary.

In accordance with Local Rule 9013-3(d) of the Rules of Procedure governing the practice before the United States Bankruptcy Court for the District of New Jersey, this motion may be deemed uncontested if no one files written responses and serves same on counsel for the moving party. This motion will be decided on the papers unless opposition is filed. The Court will permit oral argument from only the movant or a party that has filed opposition to the motion. In accordance with Local Rule 9013-2(a)(2), any opposition to this motion or any cross-motion must be filed and served not later than seven (7) days before the hearing date. A cross-motion must relate to this motion. If a party opposing this motion or filing a cross-motion wants the Court to decide this matter on the papers submitted, their motion or cross-motion should state that the party is waiving oral argument. If no responsive pleading is filed, the Court may enter the relief requested on the papers submitted.

BROEGE NEUMANN FISCHER & SHAVER, L.L.C.
Attorneys for LaConti Concrete & Masonry, Inc.
Debtor-in-Possession

Dated: 8-18-16

By: 

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re: Case No.: 15-2206
LaConti Concrete & Masonry, Inc. Chapter: 11
Debtor and Debtor-in-Possession Judge: Michal B. Kaplan

NOTICE OF PROPOSED PUBLIC SALE

LaConti Concrete & Masonry, Inc., Debtor-in-Possession, in this case proposes to sell property of the estate as described below. If you object to the sale, you must file a written objection and serve it on the party named below not later than 7 days before the hearing date.

Address of the Clerk: 402 East State Street
Trenton, NJ 08608

If an objection is filed, a hearing will be held before the Honorable Michael B. Kaplan on _____ at _____ a.m. at the United States Bankruptcy Court, Courtroom no. 8, 402 East State Street, Trenton, NJ. (Hearing date must be at least 28 from the date of this notice).

If no objection to the sale is filed the clerk will enter a Certification of No Objection and the sale will be consummated as proposed.

Location, date and time of sale: Building & Storage Yard
359 Rt. 35 South
Cliffwood Beach, NJ 07735
Saturday, October 8, 2016 @ 10:00 am.

Description of property to be sold: Vehicles, machinery and equipment

Terms of sale: Assets to be sold at public auction free and clear of any liens, claims and encumbrances; purchasers to provide Debtor with a 25% deposit at the time of sale, purchasers to represent and warrant to the Debtor that it has available funds to close which funds shall be paid within five (5) business days of sale

Objections must be served on, and requests for additional information directed to:

Name: Peter J. Broege, Esq., Broege Neumann Fischer & Shaver, L.L.C.
Address: 25 Abe Voorhees Drive, Manasquan, NJ 08736
Telephone No.: 732-223-8484

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re:	Case No.:	<u>15-22806</u>
LaConti Concrete & Masonry, Inc., Debtor and Debtor-in-Possession	Chapter:	<u>11</u>
	Judge:	<u>Michael B. Kaplan</u>

NOTICE OF PROPOSED PRIVATE SALE

LaConti Concrete & Masonry, Debtor-in-Possession, in this case proposes to sell property of the estate to the persons and on the terms described below. If you object to the sale, you must file a written objection with the Clerk of the United States Bankruptcy Court and serve it on the party listed below not later than 7 days before the hearing date.

Address of the Clerk: 402 East State Street
Trenton, NJ 08608

If an objection is filed, a hearing will be held before the Honorable Michael B. Kaplan on _____ at _____ a.m. at the United States Bankruptcy Court, courtroom no. _____. (Hearing date must be at least 28 days from the date of this notice). If no objection to the sale is filed, the clerk will enter a Certification of No Objection and the sale will be held as proposed.

Description of property to be sold: 2007 International 4400, 2010 Chevy Equinox, Formica Desk, Cannon Image Class Copier and H.P. Jet 4300 Printer, 2006 Chevy Silverado LT

Proposed Purchaser: Peter LaConti

Sale price: \$22,437.50 plus assumption of outstanding loan on 2007 International 4400 in amount of approximately \$4,000.00

Pursuant to D.N.J. LBR 6004-5, I request to pay the real estate broker and/or real estate attorney at closing on the terms set forth below.

Name of Professional:

Amount to be paid:

Services rendered:

Higher and better offers will be received. They must be in writing and filed with the clerk not later than 7 days before the hearing date set forth above.

Objections must be served on, and requests for additional information directed to:

Name: Peter J. Broege, Esq., Attorney for Debtor and Debtor-in-Possession
Address: 25 Abe Voorhees Drive, Manasquan, NJ 08736
Telephone No.: 732-223-8484

UNITED STATES BANKRUPTCY COURT
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BROEGE NEUMANN FISCHER & SHAVER, L.L.C.
25 Abe Voorhees Drive
Manasquan, NJ 08736
(732) 223-8484
Attorneys for Debtor-in-Possession
Peter J. Broege, Esq.
PB 9313

In Re:

LaConti Concrete & Masonry, Inc.,

Debtor-in-Possession

Case No. 15-22806

Chapter: 11

Hearing Date: September 19, 2016

Judge: Honorable Michael B. Kaplan

CERTIFICATION OF DEBTOR-IN-POSSESSION IN SUPPORT OF MOTION
AUTHORIZING THE DEBTOR-IN-POSSESSION TO CONDUCT A PUBLIC AUCTION
SALE AND TO APPROVE PROPOSED PRIVATE SALES OF CERTAIN VEHICLES,
MACHINERY AND EQUIPMENT FREE AND CLEAR OF LIENS, CLAIMS AND
ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363(b) and (f) APPROVING CARVE OUT
FOR ESTATE

James LaConti, hereby certifies to the Court and says:

BACKGROUND

1. I am the President and sole shareholder of the within captioned Debtor who on July 8, 2015 filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code and since that time has continued to operate as a Debtor-in-Possession.

2. I make this certification in support of the Debtor's motion seeking authority to sell at public auction sale certain vehicles, machinery and equipment as well as to approve certain private sales of vehicles and equipment.

3. Prior to the filing of the bankruptcy, the Debtor was engaged in the performance of masonry and concrete construction contracts for public jobs using union workers.

4. The Debtor ran into difficulty in operating its business and meeting its obligations due to delays in the performance of contract work over which the Debtor did not have any control. As a result of the delays and the Debtor's efforts to try to retain the employees and union workers, the Debtor incurred liabilities which the Debtor could not pay in the ordinary course of business.

5. Prior to the filing of the bankruptcy petition, the Internal Revenue Service filed a federal tax lien which covered all of the assets of the Debtor. Pursuant to the federal tax lien and prior to the filing of the Chapter 11 petition, the Internal Revenue Service seized and levied upon the Debtor's operating bank accounts which had balances at the time of levy of approximately \$461,000.00. Subsequent to the filing of the bankruptcy petition, pursuant to a motion filed by the Debtor, the Internal Revenue Service released the levy on the account and the Debtor used the funds in the ordinary course of business operating as a Debtor-in-Possession.

6. While the Debtor has been operating and trying to complete two (2) public school construction projects, the Debtor has been unsuccessful in its effort to bid for new contract work primarily because the Debtor is in a Chapter 11 case. As a result, the Debtor has determined that it does not have the ability to propose a confirmable Plan of Reorganization.

7. The Internal Revenue Service has filed a secured proof of claim in the bankruptcy case in the amount of \$1,668,278.23. In addition, a consent order was entered in the Bankruptcy Court on August 31, 2015 between the Debtor and the Internal Revenue Service which provided the Internal Revenue Service with adequate protection with a post-petition lien on all assets of the Debtor that were acquired post-petition as well as a continuing lien on the pre-petition assets.

8. The Debtor through its counsel has negotiated with the Internal Revenue Service through its counsel at the United States Attorney's Office and the Internal Revenue Service has agreed for the Debtor to conduct a public auction sale and private sale of all of its tangible

property assets consisting of vehicles, machinery and equipment. The sales will be subject to the costs and expenses associated with the auction and a twenty percent (20%) carve out from the net proceeds of sale which shall be used for the expenses of administration in the Chapter 11 case.

RELIEF REQUESTED

9. The Debtor has determined in its business judgment that it is in the best interest of the Debtor's estate to liquidate all of the Debtor's tangible property by a combination of public auction sale and private sales after notice as approved by the Bankruptcy Court.

10. The Debtor believes that a public auction sale will bring the highest and best return for the tangible assets after appropriate advertising by the Debtor's auctioneer, Peter Costanzo Auctioneers, Inc.

11. In addition, the Debtor has received certain offers from private parties to purchase certain vehicles and equipment. The Debtor believes the private sales, in its business judgment, are in the best interest of the Debtor's estate as the sale proceeds will be received without the costs and expense of an auction.

12. The sales will be made "where is" and "as is" with no representations or warranties other than the Debtor will convey marketable title. In addition, the sale will be made free and clear of liens, claims and encumbrances and consistent with the Debtor's agreement with counsel for the Internal Revenue Service.

13. The auctioneer's retention provides for reimbursement of the auctioneer of appropriate advertising and sale preparation costs and a commission of ten percent (10%) of the sale proceeds.

14. The agreement with the Internal Revenue Service is a carve out of twenty percent (20%) of the net proceeds of sale after payment of the costs and expenses of the auctioneer with

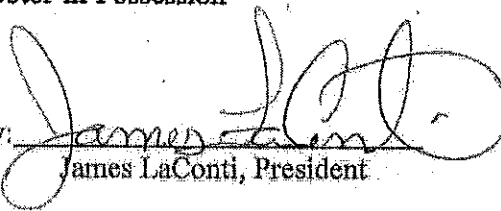
I hereby certify that the foregoing statements made by me are true and I am aware that if
any of the foregoing statements made by me are willfully false, that I am subject to punishment.

LaCONTI CONCRETE & MASONRY, INC.
Debtor-in-Possession

Dated: _____

8-17-16

By: _____



James LaConti, President