## UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

In re:	)
	)
MIRAGE DENTAL ASSOCIATES,	) Case No. 18-12496-JGR
PROFESSIONAL L.L.C.	)
	) Chapter 11
Debtor.	)

# MOTION TO SELL PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS

MIRAGE DENTAL ASSOCIATES, PROFESSIONAL L.L.C., Debtor-in-Possession herein ("Debtor"), through its undersigned counsel, respectfully moves this Court for Authority to Sell Property of the Estate Free and Clear of Liens pursuant to 11 U.S.C. §§363(b) and (f), and states as follows:

- 1. The Debtor filed for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") on March 30, 2018 (the "Petition Date"), and is operating as a Debtor-in-Possession.
- 2. The Debtor owns and operates a dental practice located at 85 Rio Grande Drive in Castle Rock, Colorado and provides general dentistry office and out patient procedures for its patients through the services of licensed professionals.
- 3. The Debtor previously employed Dickensheet & Associates, Inc. ("Dickensheet") to assist the Debtor with, among other things, selling various pieces of dental equipment that the Debtor no longer uses or requires (the "Miscellaneous Equipment"). Such equipment serves as collateral for one or more lenders, including, Ascentium Capital, Navitas Lease Corporation, and EverBank Commercial Finance, Inc. *See Docket No.* 131.
- 4. Dickensheet has performed an inventory of the Debtor's Miscellaneous Equipment (the "Inventory"). A copy of the Inventory is attached hereto as **Exhibit 1** and incorporated by reference.
- 5. Based on the Inventory and the various loan and security documents, the Debtor has identified the following items from the Inventory as collateral for certain creditors:
  - a. Navitas Lease Corporation: Item Nos. 1-21, 43, 63, 67, 69-77;
  - b. EverBank Commercial Finance, Inc.: Item Nos. 22-42, 44-55, 81, 86-90; and,
  - c. Ascentium Capital: 64-66, 68, 78-80, 82-85, 241-250, 1488-1500. *Id.*

- 6. The Miscellaneous Equipment identified in the Inventory is titled solely in the Debtor's name and pursuant to 11 U.S.C. §541 is property of the Estate.
- 7. The Debtor seeks to sell all of the Miscellaneous Equipment listed in the Inventory through a public auction conducted by Dickensheet.
- 8. The Debtor asserts that there are sound business reasons for selling the Miscellaneous Equipment and that the sale of such property by public auction to be conducted by Dickensheet at the first available auction date after approval of this motion or such later available date, in the manner described above is in the best interest of the bankruptcy estate and the creditors.
- 9. In order to consummate the sale of the Miscellaneous Equipment at the first available auction date after approval of this motion, the Debtor requests that the Court suspend the operation of Fed.R.Bankr.P. 6004(h), which automatically stays for fourteen (14) days an order authorizing the use, sale or lease of property other than cash collateral.
- 10. 11 U.S.C. §363(b) provides that, after notice and a hearing, the Debtor may sell, other than in the ordinary course of business, property of the estate. The Debtor is informed and believes that there are liens or interest in the Miscellaneous Equipment held by Ascentium Capital, Navitas Lease Corporation, and/or EverBank Commercial Finance, Inc.
- 11. 11 U.S.C. §363(f)(2) provides that the Debtor may sell property of the estate free and clear of any interest in the property of an entity other than the estate if such entity consents. The Debtor has obtained the consent of Ascentium Capital, Navitas Lease Corporation, and EverBank Commercial Finance, Inc. to sell the Miscellaneous Equipment.
- 12. All net proceeds from the sale of the Miscellaneous Equipment shall be accounted for and delivered to the applicable secured creditors. Such accounting shall be made available to the secured lenders upon request following the sale. Such proceeds shall reduce the amount of such creditor's claim, 11 U.S.C. §506, subject to the rights of the secured creditors to assert any rights based on damage to the Miscellaneous Equipment caused by the Debtor. All of such rights are preserved.
- 13. Pursuant to this Court's Order of September 17, 2018, the Debtor will compensate Dickensheet & Associates, Inc., from the proceeds of the sale of the Miscellaneous Equipment in the amount of fifteen percent (15%) commission on the gross proceeds of the auction and reasonable compensation for the actual and necessary costs of the auction, not to exceed 5% of the gross sales proceeds of the auction. *See Docket No. 131*.

14. Prior to filing this Motion, the undersigned conferred with counsel for Ascentium Capital, Navitas Lease Corporation, and EverBank Commercial Finance, Inc., who do not oppose the relief requested.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order:

- 1. Authorizing the Debtor to sell the Miscellaneous Equipment at public auction, other than in the ordinary course of business, free and clear of all liens and interests pursuant to 11 U.S.C. §§ 363(b) and (f);
- 2. Suspend the ten-day stay of Federal Rule of Bankruptcy Procedure 6004(h); and,
- 3. for such other and further relief as the Court deems appropriate.

Dated: February 15, 2019.

Respectfully submitted, BUECHLER & GARBER, LLC

/s/ Kenneth J. Buechler

Kenneth J. Buechler, #30906 999 18<sup>th</sup> Street, Suite 1230-S Denver, Colorado 80202 Tel: 720-381-0045 Fax: 720-381-0382 ken@kjblawoffice.com ATTORNEY FOR THE DEBTOR

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nber	Title & Description	
1	CST Renaissance no pass through - cabinets as photographed. Perfect for holding dental accessories, supplies and more	
2	CST Renaissance no pass through - cabinets as photographed. Perfect for holding dental accessories, supplies and more	
3	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
1	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
5	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
6	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
7	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
8	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
9	MI-500 LED dental/prep/exam - single ceiling mount light as photographed	
10	Mi-500 LED deintaly prep) chain enge Midmark M11 Ultraclave Sterilizer - as photographed. Purchased in June of 2016 for over \$5,800.00	
11	helder har assemblies, four position premium, single valves	
12	the concord and a state of the concord and the state of t	
13	mounts and kits as photographical reconstruction arm holders, mounts	
14	Pelton & Crane Spirit dental - chair Model SP3303 with 97 2000.00 and kits as photographed. Purchased back in 2016 for over \$12,500.00	
15	Expert air mini head, six pin	
16	Expert air mini head, six pin	
17	Expert air mini head, six pin	
18	Expert air mini head, six pin	
19	Expert air mini head, six pin	
20	Expert air mini head, six pin	
21	(2) Mid Back Dr's Stools with Foot Rests	
22	Pelton & Crane Five Star Office Chair, Black	
23	a hund Grade Eive Star Office Chair, Black - Cushion, Tan Frame	
2	2 Corpo Tive Star Office Chair, Black - Cushion, Tan Frame	
2	EXHIBIT	
	6     Pelton & Crane Five Star Office Chair, Black - Cushion, Tan Frame	
	7 Pelton & Crane Five Star Office Chair, Black - Cushion, Tan Frame	

28	Case:18-12496-JGR Doc#:166-1 Filed:02/15/19 Entered:02/15/19 09:35:46 Page2 of 4 Pelton & Crane Five Star Office Chair, Black - Cushion, Tan Frame
29	Pelton & Crane Five Star Office Chair, Black - Cushion, Tan Frame
30	Pelton & Crane Five Star Office Chair, Black - Cushion, Tan Frame
31	Pelton & Crane Dentist Chair with - RF2S Delivery Unit
32	Pelton & Crane Dentist Chair with - RF2S Delivery Unit
33	Pelton & Crane Dentist Chair with - RF2S Delivery Unit
34	Pelton & Crane Dentist Chair with - RF2S Delivery Unit
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40	CST Renaissance no pass through - cabinets as photographed. Perfect for holding dental accessories, supplies and more
41	CST Renaissance no pass through - cabinets as photographed. Perfect for holding dental accessories, supplies and more
42	Miele Professional G7881 Dental - Washer/Disinfector, Stainless Steel
43	Midmark M11 Ultraclave. Purchased - in 2016 for \$5,895.00
44	Pelton & Crane Spirit 3303 – Dental Chair, Purchased in 2016 for \$7,520.00.
45.	Pelton & Crane Spirit 3303 - Dental Chair, Purchased in 2016 for \$7,520.00.
46	Royal OR3-S Adjustable Height Dental - Chair, Purchased in 2016 with Orange Cushion and White Metal Base
47	Royal OR3-S Adjustable Height Dental - Chair, Purchased in 2016 with Orange Cushion and White Metal Base
48	Royal OR3-S Adjustable Height Dental - Chair, Purchased in 2016 with Orange Cushion and White Metal Base
49	Royal OR3-S Adjustable Height Dental - Chair, Purchased in 2016 with Orange Cushion and White Metal Base
50	Royal OR3-S Adjustable Height Dental - Chair, Purchased in 2016 with Orange Cushion and White Metal Base
51	Biotec Ortho Cabinet, Model N7590 - with implement attachments, foot pedal and water filter (inside cabinet) on casters.
52	Biotec Ortho Cabinet, Model N7590 - with implement attachments, foot pedal and water filter (inside cabinet) on casters.
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63	Medical Illumination model 061314 - 500 LED light arm attachment. Unit has been disconnected from the chair and cables have been cut, please bid accordingly	
64	Pelton & Crane computer screen arm - attachment for a dental chair or cabinet.	
65	Pelton & Crane computer screen arm – attachment for a dental chair or cabinet.	
66	Pelton & Crane oval mirror - arm attachment as photographed	
67	Medical Illumination model 061314 - 500 LED light arm attachment. Unit has been disconnected from the chair and cables have beer cut, please bid accordingly	
68	ICW Computer screen arm with - side slide out tray	
69	Medical Illumination model 061314 - MI-500 LED light arm attachment. Unit has been disconnected from the chair and cables have been cut, please bid accordingly	
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77	Medical Illumination model 061314 - MI-500 LED light arm attachment. Unit has been disconnected from the chair and cables have been cut, please bid accordingly	
78	ICW Computer screen arm with - side slide out tray	
79	Miscellaneous arm attachment - as photographed	
80	Lot of (4) Miscellaneous assorted - black arm attachments as photographed. Some cables appear to have been cut on one unit, please bid accordingly	
81	Pelton & Crane oval mirror - arm attachment as photographed	
82	Unknown brand Core i7 - Computer Tower, Hardware only.	
83	Unknown brand Core i7 - Computer Tower, Hardware only.	
84	Unknown brand Core i7 - Computer Tower, Hardware only.	
85	(5) Computer monitors including - (3) Asus and (2) Dell as photographed	
86	(3) Dr's Stools with Swiveling Arm	
87	(3) Dr's Stools with Swiveling Arm	
88	Beautiful Pelton and Crane Cabinetry Set Up - as photographed. Please note all items have been dis-assembled, some photographs taken prior to move. Please bid accordingly, some cabinet pieces are damaged and hardware is no longer available.	
89	(2) MT Series Metal Frame - Work Tables each with a DCI Edge unit and other attached items as photographed	
90	Dark Wood Tone Six Drawer - Executive Desk, minor scratches to top and edges, please bid accordingly	

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241	Core i5 Computer Tower, - Powered by Trinone, Hardware only.	
242	Core i5 Computer Tower, - Powered by Trinone, Hardware only.	
243	Core i5 Computer Tower, - Powered by Trinone, Hardware only.	
244	Core iS Computer Tower, - Powered by Trinone, Hardware only.	
245	Unknown Brand Core i7 - Computer Tower, Hardware only.	
246	Unknown Brand Core i7 - Computer Tower, Hardware only.	
247	Core IS Tower Computer, - Powered by Trinone, Hardware only.	
248	Core i5 Tower Computer, - Powered by Trinone, Hardware only.	
249	Dell Optiplex 790 Windows 7 - Core i7 Computer Tower, Hardware only.	
250	Dell Optiplex 790 Windows 7 - Core i7 Computer Tower, Hardware only.	
1488	(7) Flat Panel Computer Monitors - including (5) Dell, (1) Asus and (1) View Sonic as photographed. Please note these are intended for wall/cabinet mount purposes there are no stands	
1489	(3) Asus Wall Mount Flat Panel - Computer Monitors, no stands	
1490	(11) Flat Panel Computer Monitors - including (7) Asus, (2) Dell and (2) View Sonic as photographed. No Stands, meant to be mounted to a wall or cabinet	
1491	(2) Vizio and (2) Asus Flat - Panel Computer Monitors with no stands, wall mount only	
1492	Unknown Brand Core 17 - Computer Tower, Hardware only.	
1493	Unknown Brand Core i7 - Computer Tower, Hardware only.	
1494	Core i5 Computer Tower, - Powered by Trinone, Hardware only.	
1495	Unknown Brand Core i7 - Computer Tower, Hardware only.	
1496	Unknown Brand Core i7 - Computer Tower, Hardware only,	
1497	Unknown Brand Core i7 - Computer Desktop, Hardware only.	
1498	Unknown Brand Core 17 - Computer Tower, Hardware only.	
1499	Unknown Brand Core i7 - Computer Tower, Hardware only.	
1500	Miscellaneous lot of Computer - Accessories including cords, computer access, several keyboards, mice, cables and much more as photographed. Early inspection available Monday-Friday 9AM-5PM.	

### UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

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MIRAGE DENTAL ASSOCIATES,	
PROFESSIONAL L.L.C.	
Debtor.	

In re:

Case No. 18-12496-JGR Chapter 11

# ORDER GRANTING MOTION TO SELL PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS

**THIS MATTER** having come before the Court on the Debtor's Motion to Sell Miscellaneous Equipment which is property of the Estate free and clear of liens and interests at public auction, pursuant to 11 U.S.C. §§363(b) and (f), the Court having reviewed the motion, and any responses or objections thereto, hereby

**FIND** that the secured lenders have consented to the sale pursuant to 11 U.S.C. 363(f)(2). The Court therefore

**ORDERS** that the Debtor's Motion is hereby GRANTED as set forth herein. The Court

**FURTHER ORDERS,** the Debtor is hereby authorized to sell the Miscellaneous Equipment as more fully described in the Debtor's Motion. The Court

**FURTHER ORDERS**, this Order is effective immediately and is not subject to any stay pursuant to Fed.R.Bankr.P. 6004(h), or otherwise. The Court

**FURTHER ORDERS** that all net proceeds from sale of the Miscellaneous Equipment after compensation and reimbursement of expenses is paid to Dickensheet & Associates, Inc., shall be accounted for and paid directly to the respective secured lenders as identified in the Debtor's Motion within two (2) business days after completion of the auction. Such accounting shall be made available to the secured lenders upon request following the sale. The secured lenders reserve all rights with respect to the proceeds subject to their review of an accounting of the auction and with respect to any damages caused to the equipment by the Debtor; and

FURTHER ORDERS that the security interest of the secured lenders will be deemed to have been released upon sale of the equipment and payment of the proceeds to the relevant secured lender without further action of the secured lenders.

Dated

BY THE COURT:

U.S. BANKRUPTCY JUDGE

#### UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF COLORADO

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In re:

MIRAGE DENTAL ASSOCIATES, PROFESSIONAL L.L.C. Debtor. Case No. 18-12496-JGR Chapter 11

# **CERTIFICATE OF SERVICE**

# L.B.R. 9013-1 CERTIFICATE OF SERVICE OF MOTION, NOTICE AND PROPOSED ORDER

I certify that on February 15, 2019, I served a complete copy of *Motion to Sell Property of the Estate Free and Clear of Liens, Exhibit 1, Notice Pursuant to Fed.R.Bankr.P. 2002 and 6004 and L.B.R. 9013-1 of Motion to Sell Property of the Estate Free and Clear of Liens, and proposed Order* on the following parties in compliance with the Federal Rules of Bankruptcy Procedure and the Court's Local Rules:

#### Via U.S. Mail:

Mirage Denter Associates, P.L.L.C. 85 Rio Grande Drive Castle Rock, CO 80104-4216

#### Via CM/ECF:

Pater a. Cal	Stephen Dexter
Matthew T. Faga	Douglas D. Koktaby
Kevin S. Neiman	Harry L. Simon
Deanna L. Westfall	Alan K. Motes US Trustee

#### L.B.R. 2002-1 CERTIFICATE OF SERVICE OF NOTICE

I certify that on February 15, 2019, I served a complete copy of *Notice Pursuant to Fed.R.Bankr.P. 2002 and 6004 and L.B.R. 9013-1 of Motion to Sell Property of the Estate Free and Clear of Liens* ("Notice) on the following parties, in the attached Creditor Address Mailing Matrix,

which was obtained from the Court's docket on February 15, 2019 in accordance with 11 U.S.C. § 342(c) and Fed. R. Bankr. P. 2002

Dated: February 15, 2019

/s/ Sharon E. Fox

By: \_\_\_\_\_\_ For Buechler & Garber, LLC

# Label Matrix for local noticing Doc#:166-3 Filed:02/15/19

1082-1 Case 18-12496-JGR District of Colorado Denver Fri Feb 15 09:26:22 MST 2019

American Express National Bank c/o Becket and Lee LLP PO Box 3001 Malvern PA 19355-0701

Bank of America 600 North Cleveland Ave Suite 300 Westerville, OH 43082-6926

Benco Dental 295 Centerpoint Blvd. PO Box 491 Pittston, PA 18640-0491

Chase - Mileage Plus P.O. Box 15123 Wilmington, DE 19850-5123

Dentsply GAC One CA Plaza, Ste. 100 Islandia, NY 11749-5303

Dickensheet & Associate, Inc. 1501 W. Wesley Ave. Denver, CO 80223-4238

EverBank Commercial Finance 10 Waterview Blvd. Parsippany, NJ 07054-7607

Michael J. Guyerson 999 18th St. Ste., 1230 South Denver, CO 80202-2414

Internal Revenue Service PO Box 7346 Philadelphia, PA 19101-7346 P.O. Box 981535 El Paso, TX 79998-1535

Ascentium Capital 23970 HWY 59 N Kingwood, TX 77339-1535

Bank of America, N.A. c/o Stephen K. Dexter 1515 Wynkoop Street, Suite 500 Denver, CO 80202-2062

Kenneth J. Buechler 999 18th St. Ste., 1230 S Denver, CO 80202-2499

Colorado Department Of Revenue 1375 Sherman St. Room 504 Attention Bankruptcy Unit Denver CO 80261-3000

Dentsply GAC One CA Plaza, Suite 100 Islandia, NY 11749-5303

Discover Card P.O. Box 6103 Carol Stream, IL 60197-6103

Matthew T. Faga 1700 Lincoln St. Ste. 4550 Denver, CO 80203-4509

Harry L. Simon 10200 East Girard Avenue Bldg. B, Suite 120 Denver, CO 80231-5590

Jaimee Keene Avison Young - New York 1801 California Street Suite 3750 Denver, CO 80202-2659 Entered:02/15/19 09:35:46 Page 3 of 4 American Express - Business Gold Rewards

> P.O. Box 981535 El Paso, TX 79998-1535

Bank Midwest 505 Market St. #110 West Des Moines, IA 50266-3861

Bank of America, N.A. c/o Stephen K. Dexter 1515 Wynkoop Street, Suite 600 Denver, CO 80202-2062

Peter A. Cal 633 17th St. Ste. 3000 Denver, CO 80202-3622

Colorado Dept. of Revenue 1375 Sherman Street Denver, CO 80261-2200

Stephen Dexter 950 17th St. Ste.2400 Denver, CO 80202-2822

Douglas County Treasurer 100 Third Street, STE #120 Castle Rock, CO 80104-2425

Group Financial Services 10 Waterview Boulevard Parsippany, NJ 07054-1286

IRS PO Box 7346 Philadelphia PA 19101-7346

Douglas D. Koktavy 10200 E. Girard Ave. Building B Ste 120 Denver, CO 80231-5500

# Lathrop Gage Case:18-12496-JGR Doc#:166-3 Filed:02/15/19 Entered:02/15/19.09:35:46 Page4 of 4

1515 Wynkoop Street, Ste. 600 Denver, CO 80202-2062

Live Oak Banking Company 1741 Tiburon Dr. Wilmington, NC 28403-6244

Mirage Dental Associates, Professional L.L.C 85 Rio Grande Drive Castle Rock, CO 80104-4216

Kevin S. Neiman 999 18th St. Ste., 1230 S Denver, CO 80202-2414

Securities and Exchange Commission Central Regional Office 1961 Stout St. Ste. 1700 Denver CO 80294-1700

Small Business Administration Colorado District Office 721 19th Stret, Suite 426 Denver, CO 80202-2517

(p)TOYOTA MOTOR CREDIT CORPORATION PO BOX 8026 CEDAR RAPIDS IA 52408-8026

Alec Wynne Avison Young - Northern California, Ltd. 1801 California Street Suite 3750 Denver, CO 80202-2659 1741 Tiburon Drive Wilmington, NC 28403-6244

Markus Williams Young 1700 Lincoln Street, Ste. 4550 Denver, CO 80203-4509

Alan K. Motes Byron G. Rogers Federal Building 1961 Stout St. Ste. 12-200 Denver, CO 80294-6004

One Place Capital Attn Loan Processing 1920 Center Creek Drive Fairmont, MN 56031-3426

Securities and Exchange Commission Midwest Regional Office 175 W. Jackson Blvd. Ste. 900 Chicago IL 60604-2815

Small Business Term Loans Inc BFS Capital 3301 N. University Dr., Ste. 300 Coral Springs, FL 33065-4149

US Trustee Byron G. Rogers Federal Building 1961 Stout St. Ste. 12-200 Denver, CO 80294-6004 c/o Weinstein & Riley, P.S. 2001 Western Ave., Suite 400 Seattle, WA 98121-3132

Michael J. Moroni, Jr. 6295 Ellingwood Point Way Castle Rock, CO 80108-9480

Navitas Lease Corp PO Box 3491 Ponte Vedra Beach, FL 32004-3491

T. Seth Peabody iTxRe 624 Holcomb Bridge Road Suite 1 Roswell, GA 30076-1585

Harry L. Simon 10200 E. Girard Ave. Bldg. B, Ste. 120 Denver, CO 80231-5590

TIAA Commercial Finance, Inc. fka EverBank C c/o Sherman & Howard L.L.C. Attn: Peter A. Cal, Esq. 633 17th Street, Suite 3000 Denver, CO 80202-3622

Deanna L. Westfall 11101 W. 120th Ave. Ste. 280 Broomfield, CO 80021-2756

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Toyota Financial Services P.O. Box 15012 Chandler, AZ 85244-5012