

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**IN RE: ROBISON TIRE COMPANY, INC.
 DEBTOR-IN-POSSESSION**

**CASE NO. 16-51183-KMS
CHAPTER 11**

**MOTION TO ASSUME EXECUTORY CONTRACT AND FOR AUTHORITY TO
AUCTION SELL PERSONAL PROPERTY
FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

Robison Tire Company, Inc., Debtor-in-Possession (“Debtor” or “Robison”) files this Motion to Assume Executory Contract and for Authority to Auction Sell Personal Property Free and Clear of Liens, Claims and Encumbrances pursuant to §365(a) and §363 (b) and (f) of the *United States Bankruptcy Code*, Rules 2002(a)(2), 2002(c)(1), 6004 and 9014 of the *Federal Rules of Bankruptcy Procedure*, and Miss. Bankr. L.R. 9014-1 as follows:

1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1334. This Court has the statutory authority to enter a final order in connection with this matter pursuant to 28 U.S.C. §157(b)(2) (A), (N) and (O). This Court has the constitutional authority to enter a final order in connection with this matter.

2. The Debtor filed a petition for relief pursuant to Chapter 11 of the *United States Bankruptcy Code* on July 14, 2016. No trustee has been appointed in this case. The Debtor is in possession of its assets pursuant to §1108 of the *United States Bankruptcy Code*. No committee has been appointed in this case.

BACKGROUND

3. Since the early 1970's, Robison was a replacement tire wholesaler and retailer in the Southeastern United States. Robison entered into various dealer agreements with manufacturers of passenger, commercial, off road, implement and specialty tires pursuant to which it purchased

products directly from manufacturers and sold products on a wholesale and retail basis. The dealer agreements governed the contractual relationship of the parties, and included terms for, among other things, pricing, special programs, exclusive territories, payment terms, rebates for products sold, and incentive credits for reaching certain targets as to volume of tires sold and growth percentages.

4. Beginning in approximately 2008, Robison began expanding its business operations, both in geographical area and volume. By the beginning of 2011, Robison was doing business in Mississippi, Alabama, Florida, Tennessee, Georgia, Louisiana and Arkansas. Robison had warehouses in Laurel, Mississippi, Montgomery, Alabama and Nashville, Tennessee. Robison was an authorized wholesaler and retailer of a number of brands, including Armour, Bridgestone, Goodyear, Hankook, Hercules and Toyo.

First Tennessee Bank Default

5. Robison's business operations were financed in part by a \$12,000,000.00 receivables and inventory based line of credit ("LOC") extended by First Tennessee Bank ("First Tennessee"). In early 2014, First Tennessee determined that Robison's inventory borrowing base was not accurate. It requested Robison to make additional payments to bring the LOC in compliance with the borrowing base. Robison made the additional payments requested by First Tennessee.

Termination of Hercules and Goodyear Dealer Agreements

6. Two manufacturers with whom Robison had dealer agreements were The Goodyear Tire & Rubber Company ("Goodyear") and Hercules Tire & Rubber Company. ("Hercules"). In October, 2014, Hercules terminated its dealer agreement with Robison. In January, 2015 Goodyear declined to renew its dealer agreements with Robison.

7. The lack of ability to sell Goodyear and Hercules brands significantly impacted

Robison's financial condition. First Tennessee declared an event of default under the LOC. Among other things, it exercised certain remedies under the LOC with respect to receivables and approved payment of Robison's operating expenses. First Tennessee allowed Robison to remain in business and approved advances under the LOC to allow Robison to fill orders from customers on a case-by-case basis. Some of the collections of accounts receivable were used to reduce the balance of the LOC. However, First Tennessee's expectation was to be paid in full through refinancing from another lender or through a bulk sale of its assets.

Bulk Sales

8. Robison located two bulk buyers. It entered into purchase and sale agreements with Southern Tire Mart, LLC (Southern Tire") as to its assets located in Mississippi and Carroll's, LLC (Carroll Tire") as to its assets located in Alabama and Tennessee. These transactions closed in early June, 2015, ("Bulk Sales") resulting in payment in full of the LOC. Robison then terminated its remaining employees and ceased business operations. Excluded from the Bulk Sales was real property owned by Robison, cash, accounts receivable, inventory purchased from Goodyear¹, some trailers, some large specialty OTR tires warehoused in Houston, Texas and a limited number of discontinued Toyo products.

Significant Post Bulk Sales Events

9. At the time of cessation of business operations, Robison had significant trade debt

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The Goodyear brands included Goodyear, Dunlop and Kelly ("Goodyear Inventory"). Southern Tire and Carroll Tire were not authorized dealers of Goodyear brands. Therefore, the products Robison purchased from Goodyear were excluded from the Bulk Sales. After the closings of the Bulk Sales, the Goodyear Inventory was placed in trailers and containers and parked on the yard at Robison's warehouse in Laurel, Mississippi ("Laurel Warehouse").

in excess of \$10,000,000.00 to manufacturers and suppliers of inventory, approximately \$2,000,000.00 in loans from a former shareholder, Joe Robison, and approximately \$4,000,000.00 in real estate mortgage debt.

10. One of Robison's trade creditors was Strategic Import Supply, Inc. ("SIS"), which was owed approximately \$2,100,000.00. On June 29, 2015, Robison executed a Demand Promissory Note in favor of SIS in the principal amount of \$1,750,000.00 along with a Security Agreement describing as collateral "inventory, including inventory; as is specifically identified on Exhibit A attached hereto...." Exhibit "A" described specialty OTR tires for the mining industry located in a warehouse in Houston, Texas ("OTR Mining Tires"). SIS perfected its security interest in the OTR Mining Tires, but did not include a description of "inventory" in its Financing Statement. After the execution of the Demand Promissory Note and Security Agreement, Robison did not have any further communication with SIS.

11. Another significant trade creditor was Goodyear. It held a first priority purchase money security interest in the Goodyear Inventory and a second priority deed of trust upon a retail store owned by Robison located on Highway 15 in Laurel, Mississippi commonly referred to as the "New South Store."

12. Goodyear claimed that it was owed in excess of \$2,100,000.00 under its dealer agreements. In August, 2015, Goodyear began foreclosure on the New South Store. Robison filed suit against Goodyear in the Chancery Court of Jones County, Mississippi for monetary and injunctive relief ("Jones County Action"). Robison obtained a temporary restraining order enjoining the foreclosure. A week later, Goodyear filed suit against Robison in the United States District Court for the Northern District of Ohio ("Ohio District Court") for balances due under the Goodyear

dealer agreements. (“Goodyear Ohio Action”). Goodyear then removed the Jones County Action to the United States District Court for the Southern District of Mississippi, and sought transfer of the removed Jones County Action to the Ohio District Court. The removed Jones County Action was subsequently transferred to the Ohio District Court. The removed and transferred Jones County Action and the Goodyear Ohio Action are collectively referred to as the “Ohio Suits”.

13. Robison continued to wind up its business affairs, collect receivables and liquidate its remaining assets. Robison had leased the Laurel Warehouse and the New South Store to Southern Tire pursuant to a lease agreements that contained options for Southern Tire to purchase the properties. Southern Tire exercised the option as to the Laurel Warehouse, but declined to exercise the option as to the New South Store. The sale of the Laurel Warehouse closed in October, 2015, resulting in payment in full of approximately \$4,000,000.00 to the lender holding the deed of trust on the Laurel Warehouse. That lender also held a deed of trust on the New South Store, which was released. This resulted in the Goodyear deed of trust being in a first priority position.

14. With the New South Store no longer being subject to the option granted to Southern Tire, Robison entered into a purchase and sale agreement to sell the New South Store for \$1,400,000.00, subject to the consent of Goodyear and other contingencies. Robison also entered into a lease purchase agreement to sell a retail location in Forrest, Mississippi for \$300,000.00. It terminated its retirement plan, filed returns with governmental entities and consolidated its bank accounts. Creditors who made inquiry were advised of Robison’s liquidation plans, which focused on paying secured creditors so that remaining unencumbered assets could be liquidated for the benefit of unsecured creditors.

The Goodyear Settlement

15. Resolving the claims of Goodyear was an important step in the liquidation process. Approximately \$1,500,000.00 in Goodyear Inventory was stored trailers and containers at the Laurel Warehouse, now owned by Southern Tire. Goodyear declined to repossess and dispose of the Goodyear Inventory, nor would it consent to Robison liquidating the Goodyear Inventory. Settlement with Goodyear was also necessary to remove the requirement of Goodyear's consent to the sale of the New South Store.

16. Numerous discussions occurred concerning settlement. Goodyear requested numerous documents concerning Robison's financial condition, which were provided. The Ohio District Court ordered mediation of the Ohio Suits. They were successfully mediated to settlement in Youngstown, Ohio on April 26, 2016 by United States Magistrate Judge George J. Limbert. The terms of the settlement were dictated into the record of the Ohio District Court and the parties agreed to the terms of the settlement. The settlement terms were subsequently memorialized in a written Settlement Agreement, a copy of which is attached as Exhibit "A" ("Goodyear Settlement").

17. While the Settlement Agreement speaks for itself, the Goodyear Settlement generally provides that Robison will liquidate the Goodyear Inventory. One half of the net proceeds from liquidation of the Goodyear Inventory will be forwarded to counsel for Goodyear, which shall hold the funds in escrow, ("Escrow Funds") and the remaining one-half will be delivered to Robison. Upon a closing of a sale of the New South Store, Goodyear will be delivered all of the net proceeds of the sale up to \$1,400,000.00, plus one-half of the net proceeds in excess of \$1,400,000.00. In the event the net proceeds from the sale of the New South Store are less than \$1,400,000.00, all or a portion of the Escrow Funds will be delivered to Goodyear to the extent that such funds are

necessary to pay Goodyear \$1,400,000.00. The remaining Escrow Funds, if any, will be delivered to Robison. Goodyear also agreed, among other things, to limit its recourse to the proceeds of the sale of the New South Store and the Escrow Funds. This effectively reduced Goodyear's claim by over \$700,000.00.

Auction Sale of Goodyear Inventory

18. Consistent with the Goodyear Settlement, Robison began considering the best means of liquidating the Goodyear Inventory. A bulk sale was considered, but concerns over the length of time necessary to obtain a binding agreement for a bulk sale and to close a bulk sale left consummation of a bulk sale outside of Robison's control. An auction sale was considered a better alternative because of competitive bidding and a date certain upon which liquidation could be completed. A proposal was made by Taylor Auction and Realty, Inc. ("Taylor") in mid-May, 2016. After some negotiation, the proposal was modified and accepted by Robison on June 16, 2016. A copy of the Auction Proposal made by Taylor and accepted by Robison ("Auction Agreement") is attached as Exhibit "B."

19. While the Auction Agreement speaks for itself, Taylor is responsible for moving the Goodyear Inventory to the New South Store, staging the tires, division of the tires into lots and marketing the tires. The auction will be conducted on-line only, but prospective bidders will have the opportunity to inspect the lots prior to bidding. Taylor has agreed to pay the costs of staging the tires and marketing in advance and to be reimbursed same from the proceeds of the sale. Taylor will be paid a Seller's Commission of five percent on the first \$500,000.00 of the "hammer price"² and

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The "hammer price" does not include the Buyer's Premium.

seven and one-half percent above \$500,000.00. Taylor will also be paid a ten percent Buyer's Premium.

Strategic Import Supply seeks Replevin of the Goodyear Inventory and to Enjoin Auction Sale

20. On July 5, 2016, Robison was served with a Summons and Complaint in connection with a civil action filed in the United States District Court for the District of Minnesota by SIS ("SIS Action"). The Complaint alleges that based upon its security interest in the inventory of Robison, it is entitled to possession of the inventory. The Complaint also alleges, among other things, that Robison's intended auction was for the purpose of defrauding its creditors and with the intent of secreting the proceeds of the sale from SIS. The Complaint requests the Minnesota District Court to enjoin Robison from conducting the auction and to award SIS possession and ownership of the inventory. On July 14, 2016, SIS served Robison with a Motion for Temporary Restraining Order, requesting the same relief.

21. In addition to the SIS Action, other trade creditors had filed suit against Robison in several jurisdictions. With the filing of the SIS Action, Robison determined that it would be more efficient to liquidate its assets through a Chapter 11 plan of liquidation. Robison also determined that the Chapter 11 Petition was necessary to invoke the automatic stay as to the SIS Action to prevent disruption of the action sale and to preserve the benefits of the Goodyear Settlement.

RELIEF REQUESTED PURSUANT TO §365 AND §363

22. Generally, the Debtor requests the Court to approve this Motion, to authorize the assumption of the Auction Agreement pursuant to §365 of the *Bankruptcy Code*, and to authorize the Debtor to auction sell the Goodyear Inventory and other personal property more particularly

described below pursuant to §363 of the *Bankruptcy Code*.

Section 365 Standards

23. The Auction Agreement is an executory contract pursuant to §365 of the *Bankruptcy Code*. An executory contract is “[a] contract under which the obligation of both the bankruptcy and the counter party to the contract are so far unperformed that the failure of either party to complete performance would constitute a material breach excusing the performance of the other.” *Phoenix Exploration, Inc. v. Yaquinto* 15 F. 3d, 60, 63 n. 3 (5th Cir. 1994). The Auction Agreement was accepted by Robison prior to the filing of the Chapter 11 Petition. Performance is due from each party to the other party. Robison has agreed to allow Taylor to conduct the auction. Taylor has agreed to conduct the auction and to advance expenses for staging and advertising the auction. Taylor has performed substantial services under the Auction Agreement. If either party did not allow the other to continue performance, there would be a material breach.

24. Pursuant to §365(a) of the *Bankruptcy Code*, a trustee³ may assume executory contracts. The Fifth Circuit has held that courts should defer to a trustee’s business judgment when considering a motion to assume or reject an executory contract. *Richmond Leasing Co. v. Capital Bank, N. A.*, 762 F.2d 1303, 1309 (5th Cir. 1985) (citing *Group of Institutional Investors v. Chi., M., S. P. & P. R. Co.*, 318 U.S. 523, 550 (1943)). *See also NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984) (business-judgment test is appropriate for determining when executory contract can be

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Section 1107(a) of the *Bankruptcy Code* provides that “a debtor in possession shall have all the rights, . . . and powers, and shall perform all the functions and dues, except the duties specified in sections 1106(a)(2), (3) and (4) of this title, of a trustee serving in a case under this chapter.

assumed or rejected). Additionally, multiple courts have ruled that a trustee may determine whether to assume or reject an executory contract or unexpired lease based on whether such contract or lease benefits the estate. *See, e.g., In re Tama Beef Packing, Inc.*, 277 B.R. 407, 413 (Bankr. N.D. Iowa 2002); *In re Pittsburgh Sports Assocs. Holding Co.*, 239 B.R. 75, 87 (Bankr. W.D. Pa. 1999) (for a court to approve the rejection of an unexpired lease, the debtor or trustee must establish that rejection is in the best interest of the estate).

25. In order to assume a lease or executory contract, the trustee must (1) cure any default or provide adequate assurance of that the trustee will promptly cure any default, (2) compensate, or provide adequate assurance that the trustee will compensate the party other than the debtor to such contract or lease, for any actual pecuniary loss resulting from any default and (3) provide adequate assurance of future performance under such contract or lease. *In re Lil' Things, Inc.* 220 B.R. 583 (Bankr. N.D. Tex. 1998).

26. It is in the best interest of the bankruptcy estate that the Auction Agreement be assumed by Robison. Taylor had already began the process of moving the Goodyear Inventory to the New South Store when the Chapter 11 Petition was filed. Since the filing of the Chapter 11 Petition, Taylor has completed moving and staging the Goodyear Inventory.

27. Taylor is the most experienced and capable bankruptcy related auctioneer in Mississippi, and has liquidated property for every Chapter 7 trustee in this judicial district, a number of Chapter 11 trustees and Chapter 11 debtors.

28. Robison is not in default under the Auction Agreement, is in regular communication with Taylor, and there are no issues regarding adequate assurance of future performance. In fact, the

only obstacle to conducting the auction is Court approval of assumption of the Auction Agreement and the auction sale.

29. In the sound business judgment of the Debtor, it is in the best interest of the bankruptcy estate that the Court authorize assumption of the Auction Agreement.

Section 363 Standards and Auction Procedures

30. Section 363(b)(1) of the *Bankruptcy Code* provides that a (after notice and a hearing) “the Trustee may use, sell or lease, other than in the ordinary course of business, property of the estate.” As a general matter, “A judge determining a §363(b) application [should] find from the evidence presented before [her] at the hearing a good business reason to grant such application.” *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2nd Cir. 1983). Certain factors pertinent to this analysis have been articulated. Specifically, the Court should consider whether:

- (1) A sound business purpose justifies the sale;
- (2) Accurate and reasonable notice of the sale was provided;
- (3) The price to be paid is adequate, ie, fair and reasonable; and
- (4) The sale is in good faith, ie, there is an absence of any lucrative deals with insiders.

In re Industrial Valley Refrigeration and Air Conditioning Supplies, Inc., 77 B.R. 15, 21 (Bkcty. E.Dist. Penn. 1987); *In re Wilde Horse Enterprises, Inc.*, 137 B.R. 830, 841-2 (Bkcty. Cent. Dist. Cal. 1991); *In re The Landing*, 156 B.R. 246, 249 (Bkcty. E. Dist. Missouri, 1993); *In re George Walsh Chevrolet, Inc.*, 118 B.R. 99, 102 (Bkcty. E. Dist. Missouri, 1990).

31. Consideration of the factors weighs in favor of authorizing the auction sale. The Debtor has considered alternative means of liquidating the Goodyear Inventory. The auction process developed by Taylor will result in an adequate, fair and reasonable price and prevents any favoritism

towards any insiders or creditors.

Auction Procedures

32. Taylor has divided the Goodyear Inventory into approximately 1,000 lots and is in the process of completing catalogs describing the lots. Taylor and Robison have identified some products that are not Goodyear brands that were not included in the Bulk Sales. There may be some additional inventory located in the future not subject to the security interest of Goodyear (“Other Inventory”). The Other Inventory will be placed lots separate from the Goodyear lots and included in the auction. Robison has also identified trailers not included in the Bulk Sales that are owned by Robison. Some of these trailers were used to store the Goodyear Inventory and are located at the New South Store. Other trailers owned by Robison have not been located. The trailers do not have any liens encumbering them. An itemization of all of the trailers owned by Robison (“Trailers”) is attached as Exhibit “C.” Each trailer will constitute a separate lot.

33. Taylor anticipates the lots will be divided into at least four catalogs. Taylor will begin advertisement of the catalogs and make the lots available for inspection to prospective bidders on or before August 17, 2016. Bids will open for an on-line only auction on August 31, 2016. Bids on the first catalog will begin to close on September 20, 2016.

34. The on-line auction platform utilized by Taylor allows bidders to participate in the auction remotely from computers, tablets and cell phones. The platform automatically extends bidding on lots as to which there is active bidding, and the platform notifies bidders of the identity of lots for which bidding is active. As to lots for which there is no active bidding, inactive lots will begin to be declared closed beginning on September 20 at 10:00 am. As to lots for which bidding remains active, bidding will be automatically extended in five minute increments until the expiration

of a five minute increment in which no further bids on a lot have been made. Likewise, bidding on the second, third and fourth catalogs will begin to close on September 20 at 2:00 p.m., September 21 at 10:00 a.m and September 21 at 2:00 p.m. respectively, with closing of inactive lots and extended bidding on the same basis as the first catalog. Bidding on the fifth catalog, should Taylor determine a fifth catalog is appropriate, and bidding on the Trailers will begin to close on September 21 at 4:00 p.m. with extended bidding on the same basis as prior catalogs.

35. On September 22 and 23, 2016, Taylor will invoice winning bidders. Taylor will begin collecting sums due immediately upon invoicing. To the extent required by applicable Mississippi Law, Taylor will also bill and collect sales tax from purchasers and will remit same directly to the Mississippi Department of Revenue. Also, Mississippi imposes a “waste tire fee” on sales of new tires in the State of Mississippi. *See*, Miss. Code Ann. §17-17-401 et. seq. “Disposal of Waste Tires and Lead Acid Batteries.” Taylor will collect the appropriate waste tire fees and remit same to the Mississippi Department of Revenue, and will retain the five percent processing fee allowed by Miss. Code Ann. §17-17-423.

36. Successful bidders will begin taking possession of lots during the week of September 26, 2016, and will be required to make appointments as to the date and time of taking possession.

37. Taylor has identified trailers loaded with undersized “convenience” spare tires. Taylor advises that the anticipated sales proceeds of these tires is less than the cost of removing the spares from the trailers. Taylor has recommended that these spares be sold in bulk or in such quantities as any buyer is willing to pay upon taking possession of lots during the week of September 26, 2016.

38. In the event any lots or any spares are not sold, Taylor proposes to dispose of the remaining lots and spares to a scrap tire recycling processor at either the predominate market rate or in exchange for the scrap tire recycling processor taking possession of same at the New South Store.

Disclaimer of Warranties

39. As provided in the Goodyear Settlement, Goodyear is not providing any warranties as to the Goodyear Inventory and disclaims any and all warranties to the fullest extent allowed by applicable law. Further, as set forth above, all property sold in connection with the auction is on an “As Is - Where Is” basis. Neither Robison, Taylor, manufacturer or supplier of tire inventory will be responsible for any deficiencies whatsoever. All prospective bidders will warrant and represent that they have either inspected the lots or have had the opportunity to inspect the lots and will accept each and every lot in its current condition and location.

Attachment of Liens to Net Sales Proceeds and Good Faith Purchaser Status

40. Satisfaction of any of the requirements delineated in §363(f) allows the sale of property free and clear of all liens, claims, encumbrances and other interests. The Debtor requests that the sale be made free and clear of all interests, liens, including, but not limited to any and all “liens” as defined in §101(37) of the Bankruptcy Code, claims, including, but not limited to any and all “claims” as defined in §101(5) of the Bankruptcy Code, liabilities, mortgages, deeds, trusts, guaranties, security agreements, security interests, pledges, privileges, options, easements, servitudes, encroachments, hypothecations, charges, rights, obligations, restrictions, charges and encumbrances in or with respect to the property sold at the Auction.

41. The Debtor requests the Court to order that the security interest of Goodyear attach

to the proceeds of the sale of the Goodyear Inventory. The Debtor requests the Court to order that the proceeds of the sale of Other Inventory be restricted pending a determination as to whether the security interests of SIS will attach to such proceeds.

42. If a purchaser is in good faith, §363(m) of the *Bankruptcy Code* protects the parties in the event of a reversal or modification on appeal of the authorization of a sale under §363(b). In determining whether a purchaser has acted in good faith, courts look to the integrity of the purchasers in the course of the legal proceedings. *See, eg. In re Abbotts Dairies of PA, Inc.*, 788 F.2d 143, 147-48 (3rd Cir. 1986). In the instant case, the Debtor does not anticipate any lack of good faith on the part of any purchaser, as the auction process prevents any manipulation of the bidding process.

Authorization for Consummation of Auction Sale

43. The Debtor requests this Court to declare that the Debtor and Taylor be authorized to execute and deliver to the purchasers any and all conveyance and transfer documents, which will be construed and constitute for any and all purposes a full and complete conveyance and transfer of goods and marketable title in and to the Goodyear Inventory, the Other Inventory, the Trailers and any other personal property designated by the Debtor to be sold at the auction.

44. Taylor will provide the Debtor an accounting of the auction sale to the Debtor. The Debtor will file a report of the sale with the Court. The Debtor requests that upon the filing of the report of sale, Taylor be authorized to reimburse itself for the expenses incurred pursuant to the Auction Agreement, to collect the Seller's Commission and to disburse the remaining proceeds to the Debtor. The Buyer's Premium is not property of the bankruptcy estate and will be earned and retained by Taylor upon collection from the buyers.

45. The Debtor requests this Court to direct the Debtor to disburse one-half of the net

proceeds of the sale of the Goodyear Inventory to the Escrow Agent under the Goodyear Settlement and to restrict the net proceeds of the sale of Other Inventory pending further order of the Court, after notice and an opportunity for a hearing.

46. The Debtor requests this Court to include in the order granting this Motion that nothing contained in this Motion or the order granting this Motion, shall prejudice, alter, amend or modify the rights claims and defenses of any one or more of the Debtor and all parties to any civil action that was pending in any court on the date of the filing of the Petition for Relief, nor shall the same constitute of waiver of any right claim or defense of any person interested in this Chapter 11 case, except as specifically provided in the order approving this Motion.

47. Considering the exigencies, the Debtor requests that this Court find that good cause exists to authorize the assumption of the Auction Agreement and consummation of the auction sale without subjecting the order to a stay of execution, as permitted under Rules 7062 and 6004(h) of the *Federal Rules of Bankruptcy Procedure*.

WHEREFORE, Robison Tire Company, Inc., Debtor-in-Possession, hereby moves this Honorable Court, after notice and an opportunity for a hearing, to enter an order granting the relief requested above and further grant the Debtor all other relief to which it is entitled, given the premises.

Respectfully Submitted,

ROBISON TIRE COMPANY, INC.

By: /s/ William J. Little, Jr.
William J. Little, Jr., It's Attorney

OF COUNSEL:

William J. Little, Jr., MSB No. 1287

W. Jarrett Little, MSB No. 104812

Lentz & Little, PA

2505 14th Street, Suite 100

Gulfport, Mississippi 39501

Telephone (228) 867-6050

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CERTIFICATE OF SERVICE

I, William J. Little, Jr., do hereby certify that the following have been served electronically via ECF with a copy of the foregoing document:

United States Trustee: USTPRegion05.JA.ECF@usdoj.gov

Jim F. Spencer: jspencer@watkinseager.com

Stephanie Rippee: srippee@watkinseager.com

Christopher J. Steiskal, Sr.: Christopher.j.steiskal@usdoj.gov

I further certify that a copy of the foregoing document have been mailed by U.S. Mail, postage pre-paid to the following:

Robison Tire Company, Inc.

2505 14th Street, Suite 100

Gulfport, MS 39441

Strategic Import Supply, LLC

c/o Thomas G. Wallrich, Esq.

33 South 6th Street, Suite 4640

Minneapolis, MN 556402

Strategic Import Supply, LLC

c/o David Penn, Co-President

3554 Fairway Court

Minnetonka, MS 55305

The Goodyear Tire & Rubber Company

c/o General Counsel

200 Innovation Way

Akron, OH 44316

David Wallace, Esq.
Taft Stettinius & Hollister, LLP
200 Public Square, Suite 3500
Cleveland, OH 44114

Taylor Auction & Realty, Inc.
15488 US-51
Grenada, MS 38901

This the 9th day of August, 2016.

/s/William J. Little, Jr.
William J. Little, Jr.

AUCTION PROPOSAL

Taylor Auction & Realty, Inc. submits the following to:

Mr. William J. Little, Jr.
c/o Robison Tire Company, Inc.
2505 14th Street, Suite 100
Gulfport, Ms. 39501

This proposal is for the purpose of marketing at auction by the online bidding platform:

All Personal Property and or Equipment of Robison Tire Company, Inc.

The proposal consists of the following aspects:

1. **Auctioneer's Commission**
2. **Auctioneer's Responsibilities**
3. **Advertisement Investment & Marketing Strategy**
4. **Seller's Responsibilities**
5. **Terms and Conditions of Auction**
6. **General Terms of Auction Contract**

1. **Auctioneer's Commission:** For their services, Taylor Auction & Realty, Inc. receives and retains from the proceeds of the auction sale the commissions as stated below.

PERSONAL PROPERTY:

- 5% Seller's Commission assessed on the hammer price of the personal property on the first \$500,000.00
- 7.5% Seller's Commission assessed on the hammer price of the personal property above \$500,000.00
- 10% Buyer's Premium assessed on the hammer bid of the personal property
- Total of both commissions are due the Auction Company

2. Auctioneer's Responsibilities:

- Bonded and insured auction company
- On-site Liability Insurance \$1,000,000.00
- Professional management of auction marketing and research of personal property
 - Photograph items for websites
 - Prepare color brochures
 - Research and promote internationally through the internet
 - Offer online bidding platform
 - Collect Mississippi Sales Tax, provide Seller the report
- Preparation and categorization of personal property
 - Define numerical sale order of personal property



For and in consideration of this agreement to list for sale by auction the above chattel property and of your efforts to find a buyer for the same, I, the seller, hereby grant to Taylor Auction & Realty, Inc. herein known as auction company/auctioneer the exclusive right to sell by auction for the terms herein stated.

For your services, I, the seller hereby agree to pay auction company the stated rate of commission, upon the sale or contract for the sale of chattel property while this agreement remains in force, whether I, the seller or a representative of the seller or Robison Tire Company, Inc., or Taylor Auction & Realty, Inc., make such sale i.e. once property is under contract to be sold by Taylor Auction & Realty, Inc. any sale during the contract period will result in a commission due Taylor Auction & Realty regardless of the nature of procurement of the sale.

The seller hereby agrees to turn over and deliver to the auctioneers, to be sold at public auction the items of the Robison Tire Company, Inc.. No item shall be sold or withdrawn from the sale prior to the auction except by mutual agreement between seller and auctioneer. If an item is sold or withdrawn, the auctioneer shall receive full commission on the item from the seller.

The Auctioneer shall determine the time, place, manner and all conditions of the auction, including division of the property into saleable lots. For the purpose of this agreement/contract, "Lot" shall mean one or more items of Property that are offered for sale as a single catalogue unit. All property sold to the highest bidder. Excessively large lots are not offered, but items may be grouped according to the auctioneer's discretion.

The Seller understands that the Auctioneer is entitled to and intends to make representations to bidders at the auction based on the lien and title information provided by the Seller. The Seller is solely responsible for the contents of this information and shall indemnify Auctioneer for any claims arising from information provided to the Auctioneer by the Seller.

The Seller warrants that he/she has the right to sell the Property for sale; that until its sale, the Property will be kept free of all liens, claims, and encumbrances; other than those stated in a separate document provided to auctioneer prior to auction sale, and that good title and right to possession will pass to the Purchaser free of all liens, claims, and encumbrances; that all Seller's descriptions of the Property and its origins are accurate and that there are no restriction on Auctioneer's right to reproduce photographs or graphic representations of the property.

At the conclusion of the auction, the Auctioneer will deposit all sale proceeds into its escrow account. All commissions, costs, and expenses as provided by this contract will be shown as deductions from the sale of each item and the net proceeds will be delivered to the Seller within 14 days of receipt of sale proceeds by the Auctioneer.

I, the undersigned Owner and Seller release and covenant to hold harmless auctioneer and Auction Company from any and all actions, causes of actions, claims, demands, damages, expenses, on account of or any way growing out of the conduct of said auction herein mentioned relating to the breach of any Buyer's or Seller's obligations, representations, or warranties herein.

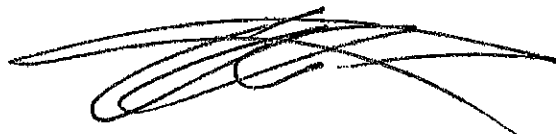
Submitted By:

Benny Taylor

President
Taylor Auction & Realty, Inc.

Robison Tire Company, Inc.

By: William J. Little, Jr.
Its Attorney

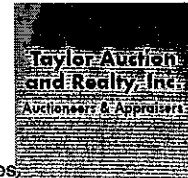


Auctioneer's Signature Ms. Lic. 176

Seller's Signature

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Project #: Taylor Auction, Tire Inventory in southern Mississippi
 Please review, sign, and fax back approved "AS IS" or marked with changes.
 Signature: _____

All costs are estimated until verified by media.

Media Buyer: Billie Jo Conner Artist:
 Maximum Budget: \$6,515.14 Estimated Actual Budget Total: \$6,515.14 Contingency: \$0.00 Date 5/12/16

| Vendor | Section | Product | Mechanicals | Schedule Summary | Deadline | Units | Total |
|--|--------------------|--|--|------------------|----------|-------|------------|
| Publications | | | | | | | |
| Tire Business | Classified | 2 col. x 3" | 3.3125" x 3" - Black & white (Classifieds) | 1 Monday | | 6 | \$1,254.16 |
| Comments: Tire Business is published every other Monday and reaches more than 30,000 print subscribers including independent tire dealers and others in the tire & automotive service industries | | | | | | | |
| Internet Listings | | | | | | | |
| www.TireBusiness.com | Online Classified | Online Classified Ad | 200+ words - 1 month | 1 month | | 1 | \$722.98 |
| Comments: Official website for Tire Business magazine | | | | | | | |
| Social Media | | | | | | | |
| *www.Facebook.com - TheAuctionAdvantage | Targeted Placement | Targeted Campaign - Promoted News Feed Post & Ad | Integrated campaign w/ Promoted Post & Ad | 5 days | | 1 | \$418.25 |
| Comments: Integrated campaign using specific targeting to reach potential buyers with a Promoted News Feed & Ad - Upload the purchased mail list to use as a target list in the Facebook campaign to create repetition (reach potential buyer thru direct mail & on Facebook) | | | | | | | |
| Electronic Marketing | | | | | | | |

| Vendor | Section | Product | Mechanicals | Schedule Summary | Deadline | Units | Total |
|--|----------------------|--------------------------|---|--------------------------------------|----------|-------------------|------------|
| *InfoUSA - Email Marketing | Targeted Email Blast | Email Blast | Custom HTML sent to a custom list | Sent once on requested date | | 1 | \$1,016.85 |
| Comments: Custom email blast sent to top contacts at 2,255 tire dealers in Mississippi, Alabama, Louisiana & Florida | | | | | | | |
| Modern Tire Dealer | MTD HotWire | eNewsletter | HotWire - 468 x 60 pixels - Mondays for 1 month | Included in 4 Monday eNewsletters | | 1 | \$1,248.78 |
| Comments: MTD HotWire is sent every Monday, Tuesday & Thursday to a subscriber based list of 20,503+ | | | | | | | |
| Modern Tire Dealer | CTD Online | eNewsletter | CTDOnline - 468 x 60 pixels - 2 Wednesdays | Included in 2 Wednesday eNewsletters | | 1 | \$854.43 |
| Comments: CTD Online is sent every 2 weeks on Wednesday to a subscriber based list of 9,636+ commercial tire dealers | | | | | | | |
| Tire Business | Daily Newsmail | eNewsletter | 1 day - 728x90; 300x250; 300x50 pixels | Included in 3 daily eNewsletters | | 3 | \$922.01 |
| Comments: Tire Business Daily Newsmail is sent Monday thru Friday to a subscriber based list of 10,500+ | | | | | | | |
| Mailing | | | | | | | |
| Database Research | | Mail List - One time use | 1,000 addresses | Emailed in excel spreadsheet | | 1 | \$77.68 |
| Comments: Addresses of 1,000 tire dealers within a radius of the location - Let me know the exact place and I can pull a count report | | | | | | | |
| Status: Quote - | | | * NAA Member Discount | Estimated Budget Total: | | \$6,515.14 | |

Unlocated Trailers

| Year | Model | Description | VIN | Titled |
|------|-------|----------------------------|-------------------|--------|
| 2000 | | Sport Trail Boat Trailer | 1SBS22253W542251 | No |
| 1984 | | Great Dane Trailer | 1GRAA5614EB110906 | No |
| 1986 | | Great Dane Trailer | 1GRAA5618GS062457 | Yes |
| 1993 | | Strickland 28' Trailer | 1S11C8282PD355066 | No |
| 1998 | | Fruehauf Trailer | 1JJV532F9WF447725 | No |
| 1999 | | Jefcoat Trailer | 1L01A5321X1137093 | No |
| 1996 | | International 8000 | 1HSHBAUN9TH380705 | No |
| 1990 | | Strickland 28' Trailer | 1S11E8281LG324913 | No |
| 2003 | | Dodge 2500 4X2 25 ST | 3D7KA26653G802921 | Yes |
| 1996 | | Ford F250 | 1FTHF25F7TEA50685 | Yes |
| 1986 | | Great Dane Trailer | 1GRAA5610GS066535 | No |
| 1986 | | Great Dane Trailer | 1GRAA5610GS102630 | No |
| 1989 | | Great Dane Trailer | 1GRAA5616KS095935 | No |
| 1993 | | Strickland 28' Pub Trailer | 1S11C8287PD355081 | No |
| 2008 | | Utility Trailer | 1J9TU14168M268487 | No |
| 2009 | | Utility Trailer | 1UT32Y2009BLK0126 | No |
| 2011 | | 20Ft Trailer | 4R7BU1419BT110670 | No |

Trailers in The Possession of Debtor

| Year | Model | Description | VIN | Titled |
|------|-------|----------------------------|-------------------|--------|
| 1998 | | Fruehauf Dry Van-Long | 1JJV532F6WF489463 | Yes |
| 1985 | | Great Dane Dry Van-Long | 1GRAA9624FB082610 | No |
| 1982 | | Great Dane Dry Van-Long | 1GRAA9228CS089402 | No |
| 1993 | | Strickland Dry Van-Short | 1S11C8281PD355060 | Yes |
| 1983 | | Fruehauf Dry Van-Short | 1HZV02818EC000419 | Yes |
| 1992 | | Manur Dry Van-Short | 1NNVA2811NM171305 | Yes |
| 1988 | | Great Dane Dry Van-Short | 1GRAA5615JB144010 | Yes |
| 1993 | | Road Systems Dry Van-Short | 1RZJKC1AXP1001907 | No |
| 1984 | | Evans/Monon Dry Van-Short | 1NNVAF2817EM07906 | Yes |
| 1992 | | Evans/Monon Dry Van-Short | 1NNVA2818NM171172 | Yes |
| 1990 | | Great Dane Dry Van-Short | 1GRAA5813LS088510 | No |
| 1994 | | Strickland Dry Van-Long | 1S12E8534SD387735 | No |

Exhibit "C" to Motion

