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Attorney for Chapter 11 Trustee

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF UTAH**

In re:

**Theron Daniel Whiting and
Susie Grace Whiting,**

Debtors.

Case No. 03-27493

Chapter 11

Hon. William T. Thurman

MOTION TO APPROVE SALE OF REAL PROPERTY

Under 11 U.S.C. § 363, Elizabeth R. Loveridge, Chapter 11 Trustee, asks the Court to approve the sale of estate property to Big Dog Management, LLC free and clear of all liens and interests based upon the following.

FACTUAL AND LEGAL BASIS

1. Theron Daniel Whiting and Susie Grace Whiting (the “Debtors”) filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the District of Utah on April 29, 2003.

2. In December 2003, Theron and Susie Whiting, as debtors-in-possession, signed a Real Estate Purchase Contract describing the property to be sold by the bankruptcy estate as 938 West Utah Avenue, Payson, Utah.

3. Shortly after the Debtors signed the Real Estate Purchase Contract, Duane Gillman was appointed Trustee of the Bankruptcy Estate.

4. Gillman moved for an Order approving the sale agreed to by the Debtors.

5. On January 22, 2004, the Court authorized the Trustee to “sell the real property, as described . . .” in the Real Estate Purchase Contract.

6. The legal description in the Trustee’s Deed that Gillman signed at the closing of the sale did not include a strip of property adjacent to the parcel sold (the “Contested Parcel”).

7. The Bankruptcy Case was closed on April 12, 2006.

8. On June 23, 2015, Gillman filed a Motion to Reopen the Case and Appoint a Trustee. The Motion was granted by the Court on July 31, 2015. Elizabeth R. Loveridge was appointed as Chapter 11 Trustee on August 3, 2015.

9. On May 31, 2016, the debtor, Susie Whiting, filed a Motion for Court to Determine that Trustee Gillman Abandoned Certain Property of the Estate Back to Debtors.

10. On June 16, 2016, Trustee Loveridge filed an Objection to the Debtor's Motion, and on December 1, 2016, the Court entered an Order Denying the Debtor's Motion to Close the Case and Denying the Motion to Determine that Trustee Gillman Abandoned Certain Property of the Estate Back to the Debtor.

11. The Contested Parcel of property remains property of the Bankruptcy Estate, and the Trustee now desires to sell the Contested Parcel to Big Dog Management, LLC (the "Buyer").

12. The Trustee, as Seller, and Big Dog Management, LLC, as Buyer, have signed a Sale Agreement which is attached as **Exhibit "A"** (the "Sale Agreement").

13. The Buyer has agreed to buy the Property for \$25,000, subject to the terms set forth set forth in the Sale Agreement.

14. The parties' obligations under the Settlement Agreement were conditioned upon the Bankruptcy Court entering a final order approving the Sale Agreement and providing in substance as follows:

(i) Theron Daniel Whiting and Susie Grace Whiting (the "Debtors") filed a Chapter 11 Bankruptcy Petition, Case No. 03-27493 (the "Bankruptcy Case"), in the United States Bankruptcy Court for the District of Utah on April 29, 2003.

(ii) At the initiation of the Bankruptcy Case, Theron Daniel Whiting and Susie Grace Whiting owned the following-described tract of land located in Utah County, Utah (the "Subject Property"):

Commencing 13.94 chains North and 2.63 chains South 89 degrees 15' East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 South, Range 2 East, Sale Lake Base and Meridian; thence South 89 degrees 15' East 0.25 of the chain;

thence North 0 degrees 50' East 8.84 chains; thence North 89 degrees 15' West 0.25 of a chain; thence South 0 degrees 50' West 8.84 chains to beginning.

Tax Parcel No. _____

(iii) The Subject Property was and is now property of the Bankruptcy Estate, has not been abandoned, and Debtors and/or their successors, assigns, or transferees have no interest in the Subject Property.

(iv) The Trustee and Big Dog have agreed that the Trustee will sell and convey to Big Dog the Subject Property on the terms set forth in a Sale Agreement attached hereto as Exhibit "A." The Court hereby approves the Sale Agreement and authorizes the Trustee to convey to Big Dog the Subject Property upon the terms contained therein through a Quit Claim Deed in the form attached thereto.

15. The sale is subject to higher and better offers and is subject to approval by the Bankruptcy Court.

16. It is the Trustee's business judgment that selling the Property for \$25,000.00 is in the best interest of the Bankruptcy Estate because the purchase price recovers the full value of the Estate's interest in the Property.

WHEREFORE, the Trustee requests that the Court approve the sale of the Property to Big Dog Management, LLC pursuant to the terms and conditions contained stated in the Sale Agreement.

DATED this 20th day of June, 2017.

WOODBURY & KESLER, P.C.

_____/s/_____
David R. Williams, Attorneys for
Elizabeth R. Loveridge, Chapter 7 Trustee

CERTIFICATE OF SERVICE—BY NOTICE OF ELECTRONIC FILING (CM/ECF)

I certify that on June 20, 2017, I electronically filed the forgoing **MOTION TO APPROVE SALE OF REAL PROPERTY** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system:

- Matthew G. Bagley matt.bagley@securitynational.com, wendee.adams@securitynational.com
- J. Scott Brown sbrown@cohnekinghorn.com, mcerutti@cohnekinghorn.com
- Duane H. Gillman dhgnotice@djplaw.com
- Douglas E. Griffith dgriffith@keslerrust.com
- Wilford N. Hansen bill@whansenlaw.com
- Craig T. Jacobsen ctjacobsen@froererandmiles.com
- Benjamin J. Kotter ben.kotter@tabbank.com, legal@tabbank.com
- Elizabeth R. Loveridge tr eloveridge@wklawpc.com, rchristensen@wklawpc.com;eloveridge@ecf.epiqsystems.com
- John T. Morgan tr john.t.morgan@usdoj.gov, James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Jeffrey L. Shields jlshields@cnmlaw.com
- David W. Sorensen david.w.sorensen@irsconsult.treas.gov
- Richard C. Terry richard@tjblawyers.com, cbcecf@yahoo.com
- Michael F. Thomson thomson.michael@dorsey.com, montoya.michelle@dorsey.com;ventrello.ashley@dorsey.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Steven T. Waterman swaterman@rqn.com, bingham.karen@dorsey.com;ventrello.ashley@dorsey.com
- David R. Williams dwilliams@wklawpc.com, kmacrae@wklawpc.com
- Kent O. Willis dianneo@utahcounty.gov, pauljo@utahcounty.gov
- Kim R. Wilson bankruptcy_krw@scmlaw.com

_____/s/_____
Kasey MacRae

CERTIFICATE OF SERVICE—MAIL, OTHER

I certify that on June 20, 2017, I caused to be served a true and correct copy of the forgoing **MOTION TO APPROVE SALE OF REAL PROPERTY** as follows:

Mail Service—by regular first class United States mail, postage fully pre-paid, addressed to:

C. Scott Brown
180 East 100 South Street
P.O. Box 45360
Salt Lake City, UT 84145-0360

Lola Brown
958 North 150 West
Centerville, UT 84014

Randy J. Christiansen
350 East Center
Suite 2
P.O. Box 2282
Provo, UT 84603

Jonathan L. Jaussi
P.O. Box 460
Payson, UT 84651

Bruce A. Maak
Parr Brown Gee & Loveless
101 South 200 East
Suite 700
Salt Lake City, UT 84111

Gil A. Miller
Rocky Mountain Advisory
215 South State Street
Suite 550
Salt Lake City, UT 84111

Douglas B. Thayer
Durham Jones & Pinegar, PC

RiverView Plaza, Suite 300
4844 North 300 West
Provo, UT 84604-5663

H. Blaine Walker
RE/MAX Associates Commercial
6629 South 1300 East
Salt Lake City, UT 84121

Susie Grace Whiting
414 West 2900 North
Pleasant Grove, UT 84062

Theron Daniel Whiting
11085 Richardson Highway
Salcha, AK 99714

_____/s/_____
Kasey MacRae

Exhibit “A”

SALE AGREEMENT

Elizabeth R. Loveridge, Chapter 11 Trustee of the Theron Daniel Whiting and Susie Grace Whiting Bankruptcy Estate (the "Trustee") and Big Dog Management, LLC ("Big Dog"), 39 W. Olympic Lane, Elk Ridge, Utah 84651, agree as follows:

RECITALS

A. Theron Daniel Whiting and Susie Grace Whiting (the "Debtors") filed a Chapter 11 Bankruptcy Petition, Case No. 03-27493 (the "Bankruptcy Case"), in the United States Bankruptcy Court for the District of Utah on April 29, 2003.

B. In December 2003, Theron and Susie Whiting, as debtors-in-possession, signed a Real Estate Purchase Contract describing the property to be sold by the bankruptcy estate as 938 West Utah Avenue, Payson, Utah.

C. Shortly after the Debtors signed the Real Estate Purchase Contract, Duane Gillman was appointed Trustee of the Bankruptcy Estate.

D. Gillman moved for an Order approving the sale agreed to by the Debtors.

E. On January 22, 2004, the Court authorized the Trustee to "sell the real property, as described . . ." in the Real Estate Purchase Contract.

F. The legal description in the Trustee's Deed that Gillman signed at the closing of the sale did not include a strip of property (the "Subject Property") adjacent to the parcel described in the Trustee's Deed. Ownership of the parcel described in the Trustee's Deed passed, through a series of conveyances, to Big Dog. Big Dog and its predecessors used that parcel and the Subject Property as a unit.

G. The Bankruptcy Case was closed on April 12, 2006.

H. On June 23, 2015, Gillman filed a Motion to Reopen the Case and Appoint a Trustee. The Motion was granted by the Court on July 31, 2015. Elizabeth R. Loveridge was appointed as Chapter 11 Trustee on August 3, 2015.

I. On May 31, 2016, the Debtor Susie Whiting filed a Motion for Court to Determine that Trustee Gillman Abandoned Certain Property of the Estate [the Subject Property] Back to Debtors.

J. On June 16, 2016, Trustee Loveridge filed an Objection to the Debtor's Motion, and on December 1, 2016, the Court entered an Order Denying the Debtor's Motion to Close the Case and Denying the Motion to Determine that Trustee Gillman Abandoned Certain Property of the Estate [the Subject Property] back to the Debtor.

K. The Subject Property remains property of the Bankruptcy Estate, and the Trustee now desires to sell the Subject Property to Big Dog.

The Trustee and Big Dog agree as follows:

AGREEMENT

1. Upon the terms contained herein, Big Dog will cause to be paid to the Bankruptcy Estate of Theron and Susie Whiting \$25,000 for the Subject Property, which is located in Utah County, Utah, more particularly described as:

Commencing 13.94 chains North and 2.63 chains South 89 degrees 15' East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 South, Range 2 East, Sale Lake Base and Meridian; thence South 89 degrees 15' East 0.25 of the chain; thence North 0 degrees 50' East 8.84 chains; thence North 89 degrees 15' West 0.25 of a chain; thence South 0 degrees 50' West 8.84 chains to beginning.

Affected Tax Parcel Nos. 30-023-0034, 55-737-0002, 55-738-0017

2. The Trustee will hold the \$25,000 amount in trust pending the Court's entry of a final Order, which has not been stayed and is not subject to appeal, approving the Sale Agreement and providing in substance as follows:

(i) Theron Daniel Whiting and Susie Grace Whiting (the "Debtors") filed a Chapter 11 Bankruptcy Petition, Case No. 03-27493 (the "Bankruptcy Case"), in the United States Bankruptcy Court for the District of Utah on April 29, 2003.

(ii) At the initiation of the Bankruptcy Case, Theron Daniel Whiting and Susie Grace Whiting owned the following-described tract of land located in Utah County, Utah (the "Subject Property"):

Commencing 13.94 chains North and 2.63 chains South 89 degrees 15' East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 South, Range 2 East, Sale Lake Base and Meridian; thence South 89 degrees 15' East 0.25 of the chain; thence North 0 degrees 50' East 8.84 chains; thence North 89 degrees 15' West 0.25 of a chain; thence South 0 degrees 50' West 8.84 chains to beginning.

Tax Parcel No. _____

(iii) The Subject Property was and is now property of the Bankruptcy Estate, has not been abandoned, and Debtors and/or their successors, assigns, or transferees have no interest in the Subject Property.

(iv) The Trustee and Big Dog have agreed that the Trustee will sell and convey to Big Dog the Subject Property on the terms set forth in a Sale Agreement attached hereto as Exhibit "A." The Court hereby approves the Sale Agreement and authorizes the Trustee to convey to Big Dog the Subject Property upon the terms contained therein through a Quit Claim Deed in the form attached thereto.

The payment must be in certified funds payable to Elizabeth R. Loveridge, Chapter 11 Trustee, and must be delivered to the offices of Woodbury & Kesler, P.C., 525 East 100 South, Suite 300, Salt Lake City, Utah 84102.

3. Upon the Court's entry of the Order contemplated by Paragraph 2 hereof, the Trustee will execute and deliver to Big Dog a Trustee's Quit Claim Deed covering the Subject Property in the form attached as Exhibit "B".

4. The contemplated transfer of the Subject Property is free and clear of liens and interests attached to the sale proceeds as allowed under 11 U.S.C. ¶ 363 (f).

5. At closing, the Trustee will convey all right, title and interest in the Subject Property at closing to Big Dog. The Trustee will convey title by Quit Claim Deed.

6. Big Dog will pay all recording fees, escrow fees and settlement charges.

7. Big Dog assumes risk of loss or damage to the Subject Property by fire, storm, burglary, vandalism, or other casualty, between the date of this Agreement and closing. No such loss or damage will void or impair this contract. If any improvements or personal property, or both, are damaged or destroyed in whole or in part, by casualty prior to closing, the contract will continue in full force and effect and Big Dog will be subrogated to Trustee's right of coverage with respect to any insurance carried by the Trustee.

8. The parties acknowledge that the Sale Agreement is subject to and conditioned upon the Bankruptcy Court's entry of the Order contemplated by Paragraph 2 hereof. Within ten days after signing this Agreement, the Trustee will move the Bankruptcy Court for entry of such Order. Big Dog will cooperate with the Trustee in seeking court approval of this Agreement and will take actions as may be reasonably necessary to get Bankruptcy Court approval. If the Bankruptcy Court does not enter the Order contemplated by Paragraph 2 hereof, the Agreement will be void, the Trustee will return any consideration received under the Agreement and all parties will be discharged from any obligations under the Agreement. Sale of the Subject Property is subject to higher and better offers determined solely by the Trustee's business judgment. If the Trustee receives a higher and better offer

before this Agreement is approved by the Bankruptcy Court, she may accept the higher and better offer. If the Trustee accepts a higher and better offer, the Agreement will be void, the parties will return any consideration received under the Agreement and all parties will be discharged from any obligations under this Agreement. Big Dog and Trustee agree that Big Dog may in whole or in part waive the requirement in Paragraph 2 that the Court enter an Order having in substance the content set forth in Paragraph 2(i) through (iv).

9. Big Dog is buying the Subject Property based on Big Dog's own investigation and knowledge. Big Dog acknowledges that the Trustee has made no representations or warranties of any kind as to title or condition of the Subject Property. Big Dog acknowledges that Big Dog has had sufficient time and opportunity to inspect the Subject Property, to investigate title to the Subject Property and to make any independent investigations desired. Big Dog acknowledges that this sale is subject to higher and better offers as determined solely by the Trustee's business judgment.

10. Each party acknowledges that it has been represented by counsel or had adequate opportunity to be represented by counsel in negotiating and signing this Agreement. Each party acknowledges that it has had the opportunity to read, review, and understand this Agreement before signing, and has chosen to sign this Agreement voluntarily, without duress or compulsion. Neither party has relied on representations or information provided by the other except as expressly set forth in this Agreement. This Agreement cannot be amended or modified except in writing signed by both parties. All previous negotiations, statements, and preliminary Agreements by the Parties or their representatives are merged in this instrument. This Agreement is governed by Federal law and Utah law.

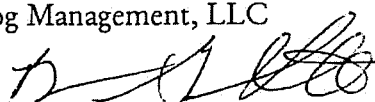
SIGNED by the parties as follows:

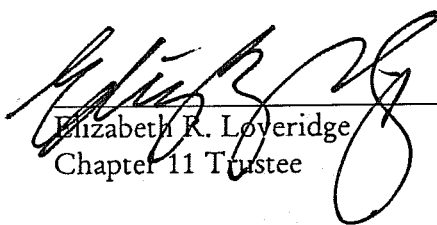
Dated this 9 day of June, 2017.

Dated this 9 day of June, 2017.

Big Dog Management, LLC

By


Name: Brian G. Smith
Title: Managing Partner


Elizabeth R. Loveridge
Chapter 11 Trustee

TRUSTEE'S QUIT CLAIM DEED

THIS TRUSTEE'S QUIT CLAIM DEED, made the ___ day of May, 2017, by Elizabeth R. Loveridge, Chapter 11 Trustee of the Bankruptcy Estate of Theron Daniel Whiting and Susie Grace Whiting, Bankruptcy No. 03-27493, as Grantor, in favor of Big Dog Management, LLC of 39 W. Olympic Lane, Elk Ridge, Utah 84651, Grantee.

Recitals

1. Theron Daniel Whiting and Susie Grace Whiting (the "Debtors") filed a Chapter 11 Bankruptcy Petition, Case No. 03-27493 (the "Bankruptcy Case"), in the United States Bankruptcy Court for the District of Utah on April 29, 2003.

2. At the initiation of the Bankruptcy Case, Theron Daniel Whiting and Susie Grace Whiting owned the following-described tract of land located in Utah County, Utah (the "Subject Property"):

Commencing 13.94 chains North and 2.63 chains South 89 degrees 15' East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 South, Range 2 East, Sale Lake Base and Meridian; thence South 89 degrees 15' East 0.25 of the chain; thence North 0 degrees 50' East 8.84 chains; thence North 89 degrees 15' West 0.25 of a chain; thence South 0 degrees 50' West 8.84 chains to beginning.

Affected Tax Parcel Nos. 30-023-0034, 55-737-0002, 55-738-0017

3. The Subject Property was and is now property of the Bankruptcy Estate, has not been abandoned, and Debtors and/or their successors, assigns, or transferees have no interest in the Subject Property.

4. On August 3, 2015, Elizabeth R. Loveridge was appointed Chapter 11 Trustee of the Bankruptcy Estate of the Debtors.

5. The Bankruptcy Court in the Bankruptcy Case has authorized the Trustee to convey the Subject Property to Big Dog free and clear of liens as allowed by 11 U.S.C. § 363 (f).

NOW, THEREFORE, Trustee as Grantor conveys and quit claims to Big Dog as Grantee free and clear of liens all right, title and interest of the bankruptcy estate of Debtors in the Subject Property, which is located in Utah County, Utah and is more particularly described as follows:

Commencing 13.94 chains North and 2.63 chains South 89 degrees 15' East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 South, Range 2 East, Sale Lake Base and Meridian; thence South 89 degrees 15' East 0.25 of the chain; thence North 0 degrees 50' East 8.84 chains; thence North 89 degrees 15' West 0.25 of a chain; thence South 0 degrees 50' West 8.84 chains to beginning.

Tax Parcel No. _____

This conveyance is made under the Order Granting Motion for Sale of Property under Section 363(b) to Big Dog Management, LLC, signed by the Honorable William T. Thurman, United States Bankruptcy Judge, on _____. A copy of the Order is attached as Exhibit "A".

DATED this ___ day of _____, 2017.

Elizabeth R. Loveridge, Chapter 11 Trustee of the
Bankruptcy Estate of Theron and Susie Whiting

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

On this ___ day of _____, 2017, personally appeared before me Elizabeth Rose Loveridge, Chapter 11 Trustee of the Bankruptcy Estate of Theron Daniel Whiting and Susie Grace Whiting, who signed the above Trustee's Quit Claim Deed in her capacity as Trustee of the Theron Daniel Whiting and Susie Grace Whiting Bankruptcy Estate, and acknowledged to me that she signed the same.

My Commission Expires: _____

Notary Public: _____
Residing at: 525 East 100 South, Ste 300
Salt Lake City, Utah