

1 DAVIS GRAHAM & STUBBS LLP
2 Cecilia Lee, Esq.
3 Nevada Bar No. 3344
4 Elizabeth High, Esq.
5 Nevada Bar No. 10082
6 50 West Liberty Street, Suite 950
7 Reno, Nevada 89501
8 Telephone: 775.229.4219
9 Facsimile: 775.403.2187
10 Email: cecilia.lee@dgsllaw.com
11 Email: elizabeth.high@dgsllaw.com

Electronically Filed July 21, 2016

12 Attorneys for former Chapter 11 Trustee and
13 current Manager of Reorganized Debtor,
14 Christina W. Lovato

15 UNITED STATES BANKRUPTCY COURT
16 FOR THE DISTRICT OF NEVADA

17 In re:
18
19 TIM E. BERTAGNOLLI,
20 Debtor.

Case No.: BK-N-15-50214-GWZ
Chapter 11 Case

21 In re:
22
23 T.E. BERTAGNOLLI & ASSOCIATES,
24 INC.,
25 Debtor.

Substantively Consolidated With
BK-15-50215-GWZ
Chapter 11

**MOTION TO SELL PROPERTY OF THE
ESTATE FREE AND CLEAR OF LIENS,
CLAIMS AND ENCUMBRANCES**

Hearing Date: OST Pending
Hearing Time: OST Pending

26 Pursuant to 11 U.S.C. §363 and the terms of the Amended Chapter 11 Plan of
27 Reorganized and Confirmation Order, former Chapter 11 Trustee and current Manager of the
28 Reorganized Debtor, Christina W. Lovato ("Manager" or "Seller"), by and through her counsel
Cecilia Lee, Esq. and Elizabeth High, Esq., Davis Graham & Stubbs LLP, hereby asks the Court

1 to enter an order authorizing the Manager to sell certain equipment and vehicles, currently
2 located on the Reorganized Debtor's property, free and clear of any liens, claims and
3 encumbrances.

4 In support of this Motion, the Manager submits the following memorandum of points and
5 authorities, the attached exhibit, the Declaration of Christina W. Lovato in Support of Motion to
6 Sell Property of the Estate Free and Clear of Liens, Claims and Encumbrances (the "Lovato
7 Declaration"), and the papers and pleadings on file in this case, of which the Manager asks this
8 court to take judicial notice. Fed. R. Evid. 201.

9 **I. STATEMENT OF FACTS**

10 1. On February 20, 2015, Tim E. Bertagnolli and T.E. Bertagnolli & Associates, Inc.
11 (collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the
12 Bankruptcy Code. Docket No. 1.

13 2. On May 26, 2015, the Bankruptcy Court entered its Order Approving US
14 Trustee's Appointment of Chapter 11 Trustee designating Christina W. Lovato as Trustee of the
15 Debtors' consolidated bankruptcy estate. Docket No. 108.

16 3. On February 25, 2016, the Court entered its Order Confirming Amended Chapter
17 11 Plan, Docket No. 361, ("Confirmation Order") and Findings of Fact and Conclusions of Law
18 in Support of Order of Final Approval of Disclosure Statement and Order Confirming Amended
19 Chapter 11 Plan, Docket No. 363. The confirmed Plan designates Christina W. Lovato as
20 Manager of the Reorganized Debtor.

21 4. On July 2, 2015, the Court approved the employment of AssetNation, Inc., an
22 affiliate of Richie Bros. Auctioneers (America), Inc., doing business as Equipment One
23 ("Equipment One"), as the Trustee's online auctioneer and to inventory the Debtor's equipment
24 and vehicles located on the Debtor's property at 7400 Brunswick Canyon Road, Carson City,
25 Nevada ("Brunswick Canyon"). Docket No. 145.

26 5. On January 26, 2016, the Court approved the employment of Richie Bros.
27 Auctioneers (America), Inc. ("Richie Bros.") as the Trustee's Auctioneer for live auctions.
28 Docket No. 333.

1 6. On March 2, 2106, the Court entered the Order Granting Motion to Sell Property
2 of the Estate Free and Clear of Liens, Claims and Encumbrances (“Sale Order”), which
3 authorized the Reorganized Debtor’s Manager to sell certain property identified in the Motion
4 via live public auction through Richie Bros. and/or online auction through Equipment One to
5 best maximize the value of the assets. Docket No. 365.

6 7. Between May 9, 2016 and June 15, 2016, Richie Bros. removed the majority of
7 the property to be auctioned from Brunswick Canyon and transported those items to the live
8 auction site; however, smaller, hard to transport or non-working pieces of equipment remained
9 at Brunswick Canyon. Lovato Declaration.

10 8. On June 23, 2016, Richie Bros. held a live public auction and sold the majority of
11 the property approved for sale in the Sale Order. Lovato Declaration.

12 9. Thereafter, Richie Bros. had numerous issues with auction buyers retrieving their
13 purchased equipment from Brunswick Canyon. Lovato Declaration. Richie Bros. informed the
14 Manager that the Debtor – who resides at Brunswick Canyon – has been interfering with the
15 auction and retrieval process by, at times, arguing with the auctioneer and purchasers regarding
16 the release of certain equipment sold at live auction to buyers who came to Brunswick Canyon
17 to retrieve purchased items. Id. The Debtor has additionally attempted to “sell” parts – parts
18 that would naturally go with a piece of purchased equipment – to individuals who had
19 previously purchased the equipment. Id. The Debtor has also informed purchasers that the
20 equipment and parts belong to him. Id. Finally, Richie Bros. informed the Manager that during
21 its attempts to make the Debtor cease this conduct, the Debtor was aggressive and hostile
22 enough that Richie Bros. now has safety concerns related to its contractors and customers. Id.

23 10. When confronted with these facts, the Debtor informed the Manager that his
24 efforts were intended to collect money “for the estate.” Lovato Declaration.

25 11. Based on the above issues as well as the relatively low value in the remaining
26 unsold property, much of which is not in working condition, Richie Bros. and Equipment One
27 determined that they would not move forward with selling the remaining unsold property that
28 had been approved for sale in the Sale Order. Lovato Declaration.

1 12. Richie Bros. then put the Manager directly in contact with certain potential
2 buyers. Lovato Declaration.

3 13. On July 7, 2016, the Manager and Busch Heavy Equipment Repair, by and
4 through its owners, Dennis & Linda Busch (the “Buyer”), reached an agreement for the
5 purchase various equipment and vehicles. Lovato Declaration.

6 14. On July 21, 2016, the parties entered into a Purchase Agreement, a copy of which
7 is attached hereto as Exhibit A. The Property at issue in this motion and to be sold to the Buyer
8 is listed in Attachment 1 to the Purchase Agreement (collectively, the “Property”). Id.

9 15. The Property is currently located at Brunswick Canyon. Lovato Declaration.

10 16. Certain of the Property listed in Attachment 1 was never inventoried by Richie
11 Bros. (“Uninventoried Property”) because Richie Bros. deemed the Property to be either
12 valueless or of such little value that it was not worth the cost of repairing the item and
13 transporting it to the auction. Lovato Declaration. Had the Uninventoried Property had value,
14 Richie Bros. would have inventoried it for inclusion in the live or online auction. Id.

15 17. The remainder of the Property listed in Attachment 1 was previously consigned to
16 Richie Bros. in the Sale Order to sell via auction (“Inventoried Property”). Docket No. 365.

17 18. The Manager believes that a sale directly to the Buyers would be more
18 advantageous than an online auction in which numerous different buyers would buy items piece
19 by piece and would be required to come to Brunswick Canyon to remove purchased property
20 and continually make contact with the Debtor. Lovato Declaration.

21 19. The Manager believes that removal of this Property – which consists of decades
22 old, non-working equipment and other scrap material – from Brunswick Canyon may assist in
23 the sale of that real property; however, the Manager also believes that it would be cost-
24 prohibitive for the Reorganized Debtor to pay to remove the Property from Brunswick Canyon
25 as the Buyer has stated that it will take dozens of hours to remove all of the Property. Lovato
26 Declaration.

27 20. Thus, the Manager proposes to sell the Property to the Buyer, who will pay for the
28 Property and also remove the Property at its own expense. The terms of the proposed sale are as

1 follows: the Purchase Price is Two Thousand Six Hundred Twenty-Five Dollars (\$2,625.00);
2 the Buyer shall remove the Property from the current location at the Buyer's own expense upon
3 Court approval of this sale; the sale is "as is, where is" without any representations or
4 warranties whatsoever, whether express, implied or imposed by law. Lovato Declaration;
5 Exhibit A.

6 21. On July 8, 2016, the Buyer wired the full Purchase Price to the Manager. Lovato
7 Declaration.

8 22. The Debtor has informed the Manager that he believes the sale price for the
9 Property is too low and that the Manager is obligated to obtain this Court's approval of the
10 proposed sale, thus necessitating this Motion. Lovato Declaration.

11 **II. LEGAL DISCUSSION**

12 **1. Sale of Property Free and Clear of Liens, Claims and Encumbrances**

13 **a. The Court Should Approve The Sale Pursuant to 11 U.S.C. §363**

14 Section 363(b) of the Bankruptcy Code provides that "[t]he trustee, after notice and a
15 hearing, may use, sell, or lease, other than in the ordinary course of business, property of the
16 estate." 11 U.S.C. §363(b). The standard for approval of a sale of property of the estate under
17 Section 363 is whether there exists some articulated business justification for the proposed
18 transaction, and whether the sale is in the best interests of the debtor, creditors and equity
19 holders. Walter v. Sunwest Bank, 83 B.R. 14, 19 (9th Cir. BAP 1988) (quoting Institutional
20 Creditors of Continental Airlines, Inc., 780 F.2d 1223, 1226 (5th Cir. 1986). In making such a
21 determination, courts may look to the following factors, not all of which are relevant here:

- 22 1. Has the debtor articulated a business justification for the request;
- 23 2. Is it good business judgment for the debtor to enter into the
24 proposed transaction;
- 25 3. Will the proposed transaction further the diverse interests of the
26 debtor, creditors and equity holders alike;
- 27 4. Is the asset increasing or decreasing in value;
- 28 5. Does the proposed transaction specify terms for adoption of the
reorganization plan (as in Braniff); and

6. Will approval of the proposed transaction effectuate a *de facto* reorganization in such a “fundamental fashion” as to render creditors’ rights under the other provisions of chapter 11 meaningless.

In re Work Recovery, 202 B.R. 301, 304 (Bankr. D. Ariz. 1996); In re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991) (“In any sale of estate assets, the ultimate purpose is to obtain the highest price for the property sold.”).

Further, according to 11 U.S.C. §363(f),

[t]he trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if—

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

Rule 6004(f) of the Federal Rules of Bankruptcy Procedure provides that “[a]ll sales not in the ordinary course of business may be by private sale or by public auction.” Fed. R. Bankr. Pro. 6004(f)(1). A trustee has broad discretion in determining the manner of sale, including whether to sell property by public or private sale. In re Canyon Partnership, 55 B.R. 520, 524 (Bankr. S.D. Cal. 1986); In re Frezzo, 217 B.R. 985, 989 (Bankr. M.D. Penn. 1988).

Rule 2002(c)(1) of the Federal Rules of Bankruptcy Procedure provides that:

[n]otice of a proposed use, sale or lease of property shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections.

Here, the proposed sale is to a third party buyer, Busch Heavy Equipment Repair, by and through its owners, Dennis & Linda Busch, in the total amount of \$2,625.00. Ex. A. The

1 Manager believes that this purchase price, combined with the fact that the Buyer will remove the
2 Property from Brunswick Canyon at its own expense, greatly benefits the Reorganized Debtor.
3 Lovato Declaration. Much of the Property – which is decades old and currently strewn about the
4 Brunswick Canyon site – is missing parts or does not work or both. The Property is of little to
5 no value, which is evidenced by the fact that Richie Bros. declined to sell the remaining
6 Inventoried Property and failed to include the Uninventoried Property in its original auction
7 proposal. Lovato Declaration.

8 The Property is not necessary for business operations at the site because the crushing
9 facility and asphalt plant are not operating. Nearly all of the Reorganized Debtor’s Equipment
10 was sold via live auction by Richie Bros. on June 23, 2016. Id. Richie Bros. has agreed that the
11 Manager may sell the Inventoried Property directly to the Buyer. Id. This sale is in the best
12 interests of the Reorganized Debtor because the Reorganized Debtor will not be required to
13 spend estate funds to repair the Property to bring it into working order, transport it to another
14 location or remove it from Brunswick Canyon by hiring a professional scrap metal hauler.

15 The sale of the Property will be “as is, where is” and without any warranties. Ex. A.
16 There is no lien against the Property and applicable nonbankruptcy law permits the sale free and
17 clear of liens, claims and encumbrances. Id. The Manager believes that sufficient business
18 justification exists for the proposed sale of the Property as removal of this Property may assist in
19 increasing the value of Brunswick Canyon, which has been listed for sale for over a year without
20 an acceptable offer.

21 Accordingly, the Manager asks the Court to approve the Motion seeking authority to sell
22 the Property free and clear of liens, claims and encumbrances.

23 **b. The Court Should Find That Busch Heavy Equipment Repair Is A Good**
24 **Faith Purchaser**

25 The Manager also asks the Court to make a finding that the Buyer is a good faith
26 purchaser pursuant to 11 U.S.C. §363(m), which provides:

27 [t]he reversal or modification on appeal of an authorization under
28 subsection (b) or (c) of this section of a sale or lease of property
does not affect the validity of a sale or lease under such

1 authorization to an entity that purchased or leased such property in
2 good faith, whether or not such entity knew of the pendency of the
3 appeal, unless such authorization and such sale or lease were
4 stayed pending appeal.

5 The Bankruptcy Code does not define “good faith purchaser.” However, the Ninth Circuit
6 Bankruptcy Appellate Panel has defined a “good faith purchaser” as one who buys “in good
7 faith” and “for value.” In re M Capital Corp., 290 B.R. 743, 746-47 (9th Cir. BAP 2003). As a
8 corollary, lack of good faith is found when there is “fraud, collusion between the purchaser and
9 other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.” Id.
10 Lack of good faith is, thus, determined by fraudulent conduct during the sale proceedings. In re
11 Exennium, 715 F.2d 1401, 1404-05 (9th Cir. 1983); In re Thomas, 287 B.R. 782, 785-86 (9th
12 Cir. BAP 2002).

13 Here, the Manager is unaware of any fraudulent conduct or other unfair conduct that
14 might mire the private sale by the estate to Busch Heavy Equipment Repair, thus meriting a
15 finding pursuant to §363(m). Lovato Declaration.

16 **c. Waiver of Stay Pursuant To Rule 6004(h)**

17 Finally, the Manager asks this Court to order that the sale of the Property is not stayed
18 pursuant to Fed. R. Bankr. Pro. 6004(h). Rule 6004(h) provides that “[a]n order authorizing the
19 use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days
20 after entry of the order, unless the court orders otherwise.” The Property is currently located at
21 Brunswick Canyon and the Manager will oversee its retrieval by Busch Heavy Equipment
22 Repair. The order approving this Motion should not be stayed so that the Manager may
23 effectuate it and immediately allow the Buyer to retrieve the Property from Brunswick Canyon.

24 **2. Compliance with Local Rule 6004(b)**

25 The requirements of Local Rule 6004(b) are addressed below:

26 (1) A copy of the proposed purchase agreement, or a form of such
27 agreement substantially similar to the one the debtor reasonably
28 believes it will execute in connection with the proposed sale.
Manager’s Response: See Exhibit A hereto.

(2) A list of all lienholders with an interest in the property to be
sold under the sale motion. Manager’s Response: Inapplicable.

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(3) A copy of a proposed form of sale order. Manager's Response: The Manager will comply with LR 9021 in circulating and submitting an order after the hearing.

(4) A request, if necessary, for the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332. Manager's Response: Inapplicable. There are no consumer issues here.

(5) The sale motion must highlight material terms, and shall indicate the location of any such provision in the proposed form of order or purchase agreement. Manager's Response: Satisfied by the foregoing Motion.

(6) In any non-individual chapter 11 case, subsections (A) through (O) are presumptively material.

(A) If the proposed sale is to an insider, as defined in 11 U.S.C. § 101, the sale motion must:

- (i) identify the insider; and
- (ii) describe the insider's relationship to the debtor.

Manager's Response: Inapplicable.

(B) If a proposed buyer has discussed or entered into any agreements with management or key employees regarding compensation or future employment, the sale motion must disclose the material terms of any such agreements. Manager's Response: Inapplicable.

(C) The sale motion must highlight any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied. Manager's Response: Inapplicable.

(D) The sale motion must disclose whether an auction is contemplated, and highlight any provision in which the debtor has agreed not to solicit competing offers for the property subject to the sale motion or to otherwise limit the marketing of the property. Manager's Response: Inapplicable.

(E) The sale motion must highlight any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction. Manager's Response: Inapplicable.

(F) The sale motion must highlight whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which the deposit may be forfeited. Manager's Response: Satisfied by the foregoing Motion.

(G) The sale motion must highlight any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C.

1 § 363(b)), and the terms of the agreements. Manager's Response:
Inapplicable.

2 (H) The sale motion must highlight any provision pursuant to which a debtor
3 proposes to release sale proceeds on or after the closing without further court
4 order, or to provide for a definitive allocation of sale proceeds. Manager's
Response: Inapplicable.

5 (I) The sale motion must highlight any provision seeking to have the sale
6 declared exempt from taxes under 11 U.S.C. § 1146(a), and the type of tax
7 (e.g., recording tax, stamp tax, use tax, or capital gains tax) for which the
8 exemption is sought. It is not sufficient to refer simply to "transfer" taxes and
the state or states in which the affected property is located. Manager's
Response: Inapplicable.

9 (J) If the debtor proposes to sell substantially all of its assets, the sale motion
10 must highlight whether the debtor will retain, or have reasonable access to, its
books and records to enable it to administer its bankruptcy case. Manager's
Response: Inapplicable.

11 (K) The sale motion must highlight any provision pursuant to which the
12 debtor seeks to sell or otherwise limit any rights to pursue avoidance claims
13 under chapter 5 of Title 11 of the United States Code. Manager's Response:
Inapplicable.

14 (L) The sale motion must highlight any provision limiting the proposed
15 purchaser's successor liability. Manager's Response: Inapplicable.

16 (M) The sale motion must highlight any provision by which the debtor seeks
17 to sell property free and clear of a possessory leasehold interest, license or
other right. Manager's Response: Inapplicable.

18 (N) The sale motion must highlight any terms with respect to credit bidding
19 pursuant to 11 U.S.C. § 363(k). Manager's Response: Inapplicable.

20 (O) The sale motion must highlight any provision whereby the debtor seeks
21 relief from the fourteen (14) day stay imposed by Fed. R. Bankr. P. 6004(h).
Manager's Response: Addressed in the foregoing Motion.

22 **III. CONCLUSION**

23 For these reasons, the Manager asks the Court to GRANT this Motion in its entirety and
24 order that the Manager has authority to sell the Property free and clear of liens, claims and
25 encumbrances. The Manager asks that the Order approving this Motion include that all sales be
26 deemed "as is where is" and without warranty; that the sale be approved pursuant to 11 U.S.C. §
27 363(m); and that effectuating the order approving this Motion not be stayed pursuant to Fed. R.

1 Bank. Pro. 6004(h).

2 DATED this 21st day of July, 2016.

3

DAVIS GRAHAM & STUBBS LLP

4

/s/ Elizabeth High, Esq. _____

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CECILIA LEE, ESQ.

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ELIZABETH HIGH, ESQ.

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EXHIBIT A

PURCHASE AGREEMENT

This Purchase Agreement, dated as of July 21, 2016, is by and between (1) Christina W. Lovato, the Manager of the Reorganized Debtor pursuant to the Order Confirming Amended Chapter 11 Plan (“Confirmation Order”) and Findings of Fact and Conclusions of Law in Support of Order of Final Approval of Disclosure Statement and Order Confirming Amended Chapter 11 Plan, entered by the Court on February 25, 2016 in the consolidated bankruptcy estates *In re Tim E. Bertagnolli*, Case No. BK-N-15-50214-GWZ and *In re T.E. Bertagnolli & Associates, Inc.*, Case No. BK-N-15-50215-GWZ, currently pending in the United States Bankruptcy Court for the District of Nevada (the “Seller”) and (2) Busch Heavy Equipment Repair, by and through its Owners, Dennis Busch and Linda Busch (the “Buyer”).

NOW THEREFORE, in consideration of the promises and mutual undertakings herein contained, Seller and Buyer agree as follows:

1. **Sale**. Seller hereby sells, assigns and transfers to Buyer the equipment, machinery and vehicles set forth in **Attachment 1** hereto, which are currently located at 7400 Brunswick Canyon Road, Carson City, Nevada (collectively, the “Equipment”).

2. **Purchase Price**. The total Purchase Price for the Equipment shall be good funds in the amount of **Two Thousand Six Hundred Twenty-Five Dollars (\$2,625.00)**. The Purchase Price shall be payable in one installment, due and payable upon execution of this Sale Agreement and will be refundable in the event that this Purchase Agreement is not approved by the Bankruptcy Court. Payment of the full purchase price was made to Seller on July 8, 2016.

3. **Delivery**. The Buyer shall remove the Equipment from the current location at the Buyer’s own expense only upon delivery of the entire of the Purchase Price to the Seller.

4. **Court Approval**. The Seller shall file a Motion for Sale Free and Clear of Liens (the “Sale Motion”) in the Bankruptcy Court, which Motion shall be noticed for a hearing before the Bankruptcy Court. In the event the Bankruptcy Court does not approve the Motion for Sale, this Purchase Agreement is null and void.

5. **Authority to Sell**. Subject to Bankruptcy Court approval, the sale of the Equipment by the Seller is made pursuant to the authority vested in the Seller as Manager of the Reorganized Debtor by the Chapter 11 Plan and Confirmation Order.

6. **Buyer’s Representations and Warranties**. The Buyer represents and warrants that it has authority to enter into this Purchase Agreement. The Buyer further represents that it has a Nevada Resale Certificate exempting it from payment of sales tax and that the Buyer will deliver a copy of the Resale Certificate to the Seller prior to the Sale Motion hearing. In the event that the Buyer does not produce a copy of the Resale Certificate to the Seller, the Seller will add 7.6% of the Purchase Price, or **One Hundred, Ninety-Nine Dollars and Fifty Cents (\$199.50)**, to the total Purchase Price.

7. Seller's Representations and Warranties. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, SELLER SELLS, ASSIGNS, AND TRANSFERS THE EQUIPMENT TO BUYER "AS IS, WHERE IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR IMPOSED BY LAW. Seller specifically disclaims any express or implied warranties or representations as to (1) the condition of the Equipment or (2) the merchantability or fitness for any particular purpose of the Equipment. Seller represents that to the best of her knowledge and information based on statements from the Debtors of the above named bankruptcy estate, the Seller is the true and lawful owner of the Equipment, and that the Equipment is not subject to any adverse security interest, lien or encumbrance.

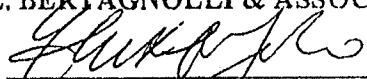
8. Entire Agreement. This Agreement is the entire agreement between Seller and Buyer and contains all statements and representations concerning the sale of the Equipment. This Agreement supersedes any and all written and oral agreements or representations between (1) Seller and Buyer; or (2) between Buyer and any other third party, including but not limited to Debtors. By their signatures below, the parties represent that they read and understand the terms set forth herein.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Nevada, without giving effect to choice of law principles of the State of Nevada.

10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument, and copies or facsimiles of execution signatures shall be equivalent to original signatures.

THIS AGREEMENT has been duly executed as of the day and year first above written.

REORGANIZED DEBTOR, BANKRUPTCY ESTATE OF TIM E. BERTAGNOLLI AND T.E. BERTAGNOLLI & ASSOCIATES, INC.

By: 
Name: Christina W. Covato
Manager of the Reorganized Debtor

BUSCH HEAVY EQUIPMENT REPAIR

By: _____
Name: Dennis or Linda Busch
Owners

7. Seller's Representations and Warranties. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, SELLER SELLS, ASSIGNS, AND TRANSFERS THE EQUIPMENT TO BUYER "AS IS, WHERE IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR IMPOSED BY LAW. Seller specifically disclaims any express or implied warranties or representations as to (1) the condition of the Equipment or (2) the merchantability or fitness for any particular purpose of the Equipment. Seller represents that to the best of her knowledge and information based on statements from the Debtors of the above named bankruptcy estate, the Seller is the true and lawful owner of the Equipment, and that the Equipment is not subject to any adverse security interest, lien or encumbrance.

8. Entire Agreement. This Agreement is the entire agreement between Seller and Buyer and contains all statements and representations concerning the sale of the Equipment. This Agreement supersedes any and all written and oral agreements or representations between (1) Seller and Buyer; or (2) between Buyer and any other third party, including but not limited to Debtors. By their signatures below, the parties represent that they read and understand the terms set forth herein.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Nevada, without giving effect to choice of law principles of the State of Nevada.


10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument, and copies or facsimiles of execution signatures shall be equivalent to original signatures.

THIS AGREEMENT has been duly executed as of the day and year first above written.

REORGANIZED DEBTOR, BANKRUPTCY ESTATE OF TIM E. BERTAGNOLLI AND T.E. BERTAGNOLLI & ASSOCIATES, INC.

By: _____
Name: Christina W. Lovato
Manager of the Reorganized Debtor

BUSCH HEAVY EQUIPMENT REPAIR

By: 
Name: Dennis or Linda Busch
Owners

ATTACHMENT 1

RBA Sch#	E1#	Description	Serial Number / VIN:	Notes
A01-21	A079	Caterpillar Crawler Loader	5J3969SP	Does not Start at Key
A01-28	A118	1972 Kenworth W923 Dump Truck	127272	Does not Start at Key, missing turbo
A01-29	A119	1980 Peterbilt 359A Dump Truck	135926P	Does not Start at Key, transmission disconnected, bad engine
A01-30	A122	1978 Trailmobile 011R3CAW 45ft Van Trailer	T90042	
A01-33	A125	1979 Peterbilt 359A19 Dump Truck	124491P	Does not Start at Key, bad engine
A01-36	A131	Freightliner COE Truck	No VIN#	
A01-37	A134	Freightliner COE Truck	No VIN#	does not start at key
A01-50	A070	1955 Peterbilt 281 Fuel & Lube Truck	M1052	Does not Start at Key
A01-96	A106	1975 White-Freightliner WFT6362TG Cab & Chassis	CA414HL116120	Does not Start at Key
A01-97	A109	1985 Peterbilt 359 Dump Truck	1XP9LB9X9FP193354	Does not Start at Key, bad engine
A01-115	A108	Kenworth W900A Truck	153579S	Does not Start at Key, bad Engine
A01-117	A105	1984 Kenworth W900A Truck	2XKWDB9X0EM912278	Does not Start at Key, bad engine
N/A	A003	Cook Bros. 4/Axle Crane Truck w/ Koehring 445 45 Ton Truck Crane	C3164	Does not Start at Key
N/A	A202	Hartl Power Crusher		Does not start at key, bad engine, crusher damaged
N/A	A019	S/A Portable Conveyor		
N/A	N/A	Red and White Conveyor (60 in. x 20 ft)		
N/A	N/A	Under Cone Conveyor (60 in. x 20 ft)		
N/A	N/A	Quantity of Cone Liners		
N/A	N/A	Quantity of Water/Sewer line Parts (pipe, valves, couplers, fittings, etc)		
N/A	N/A	Joy Compressor		doesn't run
N/A	N/A	Misc. Ripper/Bucket Aecessories, Misc. Engines/Transmissions, Misc. Engine/Transmission Parts, Heavy Eq. Parts		