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10 *Attorneys for Eric M. Haley, Trustee*

11 **IN THE UNITED STATES BANKRUPTCY COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 In re:

14 WALTER JOHN T JONES, III,

15 Debtor.

(Chapter 7 Case)

No. 2:23-bk-02369-EPB

**TRUSTEE’S MOTION TO SELL
ESTATE’S INTEREST IN PROPERTY
AND APPROVE BIDDING
PROCEDURES**

11 U.S.C. §363(b)

16 Eric M. Haley, Chapter 7 Trustee, herein applies to this Court for an Order approving
17 *Trustee’s Motion to Sell Estate’s Interest in Property and Approve Bidding Procedures*
18 (“**Motion**”). In support of his Motion, the Trustee submits the following Memorandum of Points
19 and Authorities and the entire record of this administrative case.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **A. FACTUAL BACKGROUND**

22 1. This case was commenced by a voluntary Petition filed by Walter John T Jones, III
23 (“**Debtor**”) under Chapter 7 of Title 11 of the United States Code on April 14, 2023 (“**Petition**
24 **Date**”).

25 2. Eric M. Haley is the duly qualified and acting Trustee in this case (“**Trustee**”).

26 3. As of the Petition Date, Debtor owned a 2005 Haulmark 7x10 enclosed trailer
27 (“**Trailer**”). The Trailer is not encumbered by any exemption.

28 4. Trustee has determined in his best business judgment that a sale of the Estate’s interest
in the Trailer could generate funds for the Estate and is in the best interest of the Estate.

1 5. The Trustee proposes to offer the Estate’s interest in the Property for sale to the person
2 making the highest and best bid at public sale on **Friday, October 27, 2023, at 8:30 a.m. The**
3 **auction is telephonic. Bidders may bid by telephone** by dialing 1 (310) 372-7549, waiting for
4 prompt – ACCESS CODE # 831482 then pressing #.

5 6. Trustee has received an opening bid from William Reeser of \$1,000.00.

6 7. The Trailer will be sold subject to higher and better bids at the auction.

7 8. Interested parties may contact Helen K. Santilli, counsel for the Trustee at
8 helen.santilli@lane-nach.com for additional information.

9 9. Payment in full shall be made in the form of a check made payable to “Eric M. Haley,
10 Trustee” within five days of the sale.

11 **10. Prospective purchasers may not rely on the information in this Motion in making**
12 **an offer and/or bid and must perform their own due diligence to analyze the value of this**
13 **asset. The Trailer will be sold on an “AS IS” / “WHERE IS” basis, with no warranties,**
14 **guarantees express or implied, subject to all liens, claims, encumbrances and interests.**

15 11. The proposed purchaser is not an “insider” as defined by 11 U.S.C. § 101(31).

16 12. Trustee is not aware of any other entities holding an interest in the scheduled interest in
17 the Trailer.

18 13. There has been no stay relief sought as to the Trailer.

19 14. The Trustee is not aware of any recent appraisals on the Trailer.

20 15. There are no broker’s fees/compensation related to this sale.

21 16. Upon the later of the Court approving the instant Motion, completion of the proposed
22 Sale, and receipt of full payment of the purchase price, Trustee shall execute a Bill of Sale (and any
23 other required documentation) transferring the Estate’s interest in the Trailer to the respective
24 prevailing bidder subject to the terms set forth herein and an Order entered by the Court approving
25 the terms of the sale.

26 **B. LEGAL AUTHORITY**

27 17. This Court has jurisdiction over Debtor's Chapter 7 case under 28 U.S.C. § 1334.
28 Proceedings with respect to the Motion are core proceedings that the Court may hear and decide.
See 28 U.S.C. § 157(b)(1) and (b)(2)(A), (M), (N), and (O). Moreover, venue is appropriate

1 pursuant to 28 U.S.C. § 1408(1).

2 18. Property of the Estate includes “all legal or equitable interests of the debtor in
3 property as of the commencement of the case.” *See* 11 U.S.C. § 541(a). The concept of property
4 of the estate is broad in scope, encompassing all kinds of property, including tangible and
5 intangible property, causes of action, real and personal property, certain property held by the
6 debtor in trust for others, and certain property of the debtor held by others. *See U.S. v. Whiting*
7 *Pools*, 462 U.S. 198, n.9 (1983). As detailed above, Debtor acquired his interest in the Trailer
8 pre-Petition and held the same interest in the Trailer on the Petition Date. Therefore, the
9 scheduled interest in the Trailer is property of the Estate that can be liquidated for the benefit of
10 the creditors of this Estate.

11 19. Section 363(b)(1) provides that “[t]he [T]rustee, after notice and a hearing, may use,
12 sell, or lease, other than in the ordinary course of business, property of the estate”

13 20. A trustee must demonstrate a sound business justification for a sale or use of assets
14 outside the ordinary course of business. *E.g., In re Continental Air Lines, Inc.*, 780 F.2d 1223,
15 1226 (5th Cir. 1986). Courts look to various factors to determine whether to approve a motion
16 under section 363(b), such as: (i) whether a sound business reason exists for the proposed
17 transaction; (ii) whether fair and reasonable consideration is provided; (iii) whether the
18 transaction has been proposed and negotiated in good faith; and (iv) whether adequate and
19 reasonable notice is provided. *In re Condere*, 228 B.R. 615, 626 (S.D. Miss. 1998).

20 21. The Trustee believes in his best business judgment that the prospective Sale will
21 generate funds for the benefit of the creditors of this Estate and is in the best interest for all creditors
22 and parties-in-interest. The Sale will be conducted via public auction and will be subject to higher
23 and better bids.

24 22. Pursuant to Local Rule 6004-1, Trustee must file a motion and, after notice, obtain
25 an Order approving a sale outside the ordinary course of business if the property being sold is
26 expected to have a value greater than \$2,500.00.

27 23. Additionally, the Trustee respectfully requests that the Court, in the discretion
28 provided to it under Fed.R.Bankr.P. 6004(h), waive the fourteen-day stay of the Order arising
under that same Bankruptcy Rule.

1 WHEREFORE, the Trustee prays for an Order of this Court as follows:

- 2 A. Granting Trustee's Motion to Sell Estate's interest in the Trailer "as is" /
3 "where is" with no warranties express or implied, subject to any liens,
4 claims, interests, or encumbrances to Debtor or anyone submitting a higher
5 and better offer;
- 6 B. Authorizing the Trustee to accept the proceeds from the sale of the Estate's
7 interest in the Trailer;
- 8 C. Authorizing the Trustee to execute all additional documents and perform
9 other such acts as may be necessary or reasonably requested to facilitate and
10 complete the transaction;
- 11 D. Waiving the 14-day stay of Fed.R.Bank.P. Rule 6004(h); and
- 12 E. For such other and further relief as this Court deems just and proper.

13 RESPECTFULLY SUBMITTED this 18th day of September, 2023.

14 **LANE & NACH, P.C.**

15 By /s/ Helen K. Santilli

16 Stuart B. Rodgers
17 Helen K. Santilli
Attorney for Trustee

18 **A COPY** of the foregoing delivered via
19 electronic mail / US mail as indicated
on the 13th day of June 2023:

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27 By: /s/ Aimee Bourassa