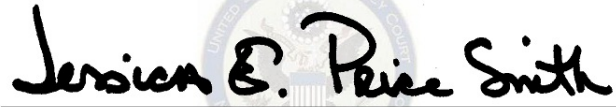


IT IS SO ORDERED.

Dated: 14 June, 2022 06:11 PM



JESSICA E. PRICE SMITH
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:)	
)	Case No. 10-50494
FAIR FINANCE COMPANY,)	
)	Chapter 7
Debtor.)	
)	Judge Jessica E. Price Smith
)	

ORDER APPROVING SALE OF CERTAIN PERSONAL PROPERTY OF THE ESTATE
FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES

This matter came before the Court on the *Trustee's Motion for Entry of Orders (1) Establishing Procedures for the Marketing and Sale of Certain Personal Property of the Estate Free and Clear of Liens, Claims, and Encumbrances, and (2) Approving the Sale of Certain Personal Property of the Estate, Free and Clear of Liens, Claims and Encumbrances Pursuant to 11 U.S.C. § 363 and Bankruptcy Rule 6004* (Docket No. 2713, the "**Motion**"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion. The Court conducted a hearing on the Motion on June 7, 2022 (the "**Hearing**"), and the Court having considered the Motion and all responses filed thereto, if any, as well as any evidence presented at



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the Hearing; and the Court having jurisdiction to consider and determine the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and due notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor; the Court hereby finds and determines as follows:

General

A. The Court has jurisdiction to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper in the Court under 28 U.S.C. §§ 1408 and 1409, and the Debtor has consented to the entry of Final Orders by this Court.

B. The statutory predicates for the relief sought in the Motion are 11 U.S.C. § 363 and Fed. R. Bankr. P. 6004.

C. On March 2, 2010, the United States Trustee appointed the Trustee as the chapter 7 trustee in the Debtor's above-captioned bankruptcy case *nunc pro tunc* effective February 24, 2010 (Docket No. 41).

D. On April 6, 2022, the Court entered the *Order Granting Motion for Entry of an Order Establishing Procedures for the Marketing and Sale of Certain Personal Property of the Estate Free and Clear of Liens, Claims, and Encumbrances* (Docket No. 2715, the “**Procedures Order**”), establishing, among other things: (a) Bid Procedures, including the manner and form of notice to be applied during a sale of certain assets of the Debtor, (b) a date for the Auction, and (c) a date for the Hearing to consider approval of the Auction results.

E. As evidenced by the certificates of service filed with the Court, and based on the representations of counsel at the Hearing, (i) proper, timely, and sufficient notice of the Motion, the transactions contemplated therein, the Procedures Order, the Bidding Procedures, the Auction and the Hearing was timely provided to all parties in interest in accordance with 11 U.S.C. § 363

and Fed. R. Bankr. P. 2002 and 6004; (ii) such notice was good and sufficient under the circumstances; and (iii) no other or further notice of the Motion, the transactions contemplated therein, the Procedures Order, the Bidding Procedures, the Auction, the Hearing or the entry of this Order is required.

F. A reasonable opportunity to object or be heard with respect to the Motion and the relief requested therein has been afforded to all interested persons and entities, including, but not limited to (i) the Office of the United States Trustee; (ii) all parties who have made an offer on the Remnant Assets or expressed an interest in making an offer on the Remnant Assets; (iii) all known persons holding or asserting a recorded lien on any of the Remnant Assets; and (iv) all entities who have requested notice under Fed. R. Bankr. P. 2002.

The Marketing Process

G. As set forth in the Motion, the Trustee received an offer from SLFAQ to purchase the Remnant Assets for \$10,000.00. By the Procedures Order, the Court approved SLFAQ acting as the stalking horse for purposes of the marketing and sale of the Remnant Assets pursuant to the Stalking Horse APA.

H. On April 7, 2022, the Trustee solicited bids for the Remnant Assets by emails sent to the Solicited Bidders in accordance with the terms of the Bid Procedures, as well as by an email sent to one additional party that had separately expressed potential interest in making a bid for the Remnant Assets.

I. On April 8, 2022, SLFAQ tendered its Deposit to the Trustee.

J. Under the Procedures Order, the deadline for interested bidders to submit Notices of Intent to Bid to the Trustee was 5:00 p.m. Eastern Time on May 9, 2022. The Trustee did not receive any Notices of Intent to Bid by that deadline. Therefore, SLFAQ's stalking horse bid of

\$10,000.00 was the Winning Bid within the meaning of the Bid Procedures and the Trustee cancelled the Auction.

K. On May 10, 2022, the Trustee filed the Winning Bid Notice identifying SLFAQ as the Winning Bidder with a Winning Bid of \$10,000.00 and identifying the Stalking Horse APA as the proposed purchase agreement for the sale of the Remnant Assets to SLFAQ.

L. The Bid Procedures afforded a full, fair and reasonable opportunity for any person or entity to make a higher or better offer to purchase the Remnant Assets.

M. The Trustee and SLFAQ have complied with the Procedures Order in all respects.

N. The Motion provided that the sale of the Remnant Assets shall be free and clear of all liens, claims, interests, and other encumbrances within the meaning of 11 U.S.C. § 363(f).

O. The sale of the Remnant Assets was negotiated, proposed, and entered into by and among the Trustee and SLFAQ without collusion, in good faith, and from arm's length bargaining positions. The sale process conducted by the Trustee was non-collusive, fair and reasonable and was conducted in good faith. Neither the Trustee nor SLFAQ has engaged in any conduct that would cause or permit the application of 11 U.S.C. § 363(n) to the sale, including having the sale voided.

P. SLFAQ is a good faith purchaser in accordance with 11 U.S.C. § 363(m) and, as such, SLFAQ and its assignees and designees are entitled to all of the protections afforded thereby. Absent a stay of the effectiveness of this Order, if any, SLFAQ will be acting in good faith within the meaning of 11 U.S.C. § 363(m) in closing the transaction upon the entry of this Order.

Q. The terms and conditions of the sale of the Remnant Assets (i) are fair and reasonable; (ii) are valid, binding and enforceable; (iii) constitute the highest and best offer for the Remnant Assets; (iv) will provide a greater recovery for the Debtor's creditors than would be

provided by any other practical available alternative; and (v) constitute reasonably equivalent value and fair consideration for the Remnant Assets.

R. The sale of the Remnant Assets will, upon the Closing, (i) be a legal, valid, and effective transfer of the Remnant Assets by the Trustee and the Debtor's estate to SLFAQ with no further action required on the part of the Trustee and (ii) vest SLFAQ with good title to the Remnant Assets free and clear of all liens, claims, interests and encumbrances within the meaning of 11 U.S.C. § 363(f).

S. The relief sought in the Motion, is in the best interests of the Debtor, the estate, creditors, and all parties in interest. The proposed sale must be approved and consummated promptly in order to maximize the value of the Debtor's estate.

T. Upon entry of this Order, the Trustee and the Debtor's estate have good and marketable title to the Remnant Assets.

U. The Trustee has demonstrated good, sound and sufficient business purpose and justification for the sale of the Remnant Assets, and it is a reasonable exercise of the Trustee's business judgment to sell the Remnant Assets to SLFAQ as called for under the Stalking Horse APA.

V. The provisions of 11 U.S.C. § 363 have been complied with and are applicable to the sale of the Remnant Assets as called for under the Stalking Horse APA.

W. The Trustee may consummate the transactions and transfer the Remnant Assets free and clear of all liens, claims, interests, and encumbrances because one or more of the standards set forth in 11 U.S.C. § 363(f)(1)-(5) have been satisfied. All liens, claims, interests or encumbrances, if any, against the Remnant Assets shall attach to the proceeds of the transactions with the same validity, enforceability, priority, force and effect that they now have as against the Remnant Assets.

ACCORDINGLY, THE COURT HEREBY ORDERS THAT:

1. The findings of fact entered above and the conclusions of law stated herein shall constitute the Court's findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052, made applicable to this proceeding pursuant to Fed. R. Bankr. P. 9014. To the extent that any finding of fact shall later be determined to be a conclusion of law, it shall be so deemed, and to the extent that any conclusion of law shall later be determined to be a finding of fact, it shall be so deemed.

2. The Motion, to the extent not previously granted in the Procedures Order, is granted in its entirety on the terms and conditions set forth herein.

3. All parties in interest have had the opportunity to object to the relief requested by the Trustee in the Motion, and to the extent that any objections to the Motion have not been withdrawn, waived or settled, such objections are overruled on the merits. The parties who did not object, or who withdrew their objections, to the Motion, are deemed to have consented to the relief set forth therein.

4. The sale of the Remnant Assets as requested in the Motion is approved in its entirety. The Stalking Horse APA and other agreements entered into by the Trustee and SLFAQ in connection therewith shall be fully enforceable by the parties thereto in accordance with and subject to their terms and conditions. The Trustee is hereby authorized to perform such actions as may be necessary or advisable to effectuate the terms of this Order.

5. The sale of the Remnant Assets as called for under the Stalking Horse APA is hereby approved pursuant to 11 U.S.C. § 363.

6. The Trustee and SLFAQ are authorized and directed, pursuant to 11 U.S.C. § 363(b), to perform all of their obligations pursuant to the Stalking Horse APA and any other agreements and to execute such other documents and take such other actions as are reasonably necessary to effectuate the sale of the Remnant Assets.

7. Upon the Closing, the Remnant Assets shall be sold, transferred or otherwise assigned to SLFAQ free and clear of all liens, claims, interests and encumbrances, including, without limitation, any liens for or in connection with any real or personal property taxes owing, accruing or arising on or with respect to any of the Remnant Assets before the Closing, pursuant to 11 U.S.C. § 363(f), with all such liens, claims, interests and encumbrances to attach to the proceeds of sale in the order of their priority, and with the same validity, priority, force and effect that they now have as against the Remnant Assets.

8. The consideration to be paid by SLFAQ for the Remnant Assets is fair and reasonable and may not be avoided under 11 U.S.C. § 363(n).

9. This Order (a) is and shall be effective as a determination that, upon the Closing, all liens, claims, interests and encumbrances existing as to the Remnant Assets prior to the date of entry of this Order have been unconditionally released, discharged and terminated in each case as to the Remnant Assets and (b) is and shall be binding upon and shall govern acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of fees, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities, who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments that reflect that SLFAQ is the assignee of the Remnant Assets free and clear of all liens, claims, interests and encumbrances. In addition, upon the Closing, each of the Debtor's creditors is authorized and directed to execute such documents and take all other actions to release its liens, claims, interests or encumbrances in or on the Remnant Assets as may have been recorded or may otherwise exist.

10. Consummation of the transactions will not subject SLFAQ to any debts, liabilities, obligations, commitments, responsibilities or claims of any kind or nature whatsoever, by reason of sale, transfer or assignment of the Remnant Assets, including, without limitation, based on any theory of successor or transferee liability.

11. The Stalking Horse APA and any related agreements, documents or other instruments may be modified, amended, or supplemented through a written document signed by the parties in accordance with the terms thereof without further order of the Court; provided, however, that any such modification, amendment or supplement is neither material nor changes the economic substance of the transactions contemplated hereby.

12. SLFAQ, as a purchaser in good faith, and its assignees and designees shall be entitled to the protections of 11 U.S.C. § 363(m).

13. The provisions of this Order are self-executing and each and every federal, state, and local governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the sale of the Remnant Assets.

14. The Court shall retain exclusive jurisdiction (a) to enforce and implement the terms and provisions of the Stalking Horse APA and each of the agreements, documents and instruments executed therewith; (b) to resolve any disputes, controversies or claims arising out of or relating to the Stalking Horse APA; and (c) to interpret, implement and enforce the provisions of this Order.

15. The terms of this Order shall be binding on and inure to the benefit of the Trustee, Debtor and its estate, SLFAQ and all other parties in interest, and any successors of any of them.

16. Notwithstanding the possible applicability of Fed. R. Bankr. P. 6004(h), 7062 and 9014, the terms and conditions of this Order shall be effective immediately and enforceable upon its entry, and no automatic stay of execution shall apply to this Order. The Trustee and SLFAQ

are authorized to close immediately upon entry of this Order, subject only to the satisfaction of any conditions or requirements therein that must be satisfied prior to Closing.

IT IS SO ORDERED.

#

Respectfully submitted,

/s/ Adam L. Fletcher

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