

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

IN RE:

CHARLES HARVEY JACKSON,

DEBTOR.

CASE NO. 16-04139-5-DMW
CHAPTER 13

NOTICE OF PROPOSED PUBLIC SALE AND COMMISSIONS TO AUCTIONEER

TO: ALL CREDITORS AND PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN, that provided no objections by a party in interest are filed with this Court on or before **FEBRUARY 28, 2019, AT 9:30 A.M.** (the “Response/Objection Deadline”), upon approval of the United States Bankruptcy Court for the Eastern District of North Carolina (the “Court” or the “Bankruptcy Court”) the property described herein shall be sold via auction and public sale in the means and methods described herein.

FORWARD AND INTRODUCTION

This Notice is given for the purpose of providing all creditors and parties-in-interest with information reasonably calculated to allow for an informed decision as to whether to support, object or abstain with respect to this *Notice of Proposed Public Sale and Commissions to Auctioneer* (the “Notice”).

The personal property to be sold includes certain agricultural farm equipment owned by the Debtor, including a John Deere 8120, John Deere 4840 and 630 John Deere Harrow, and KMC Cultivator, which are more specifically identified below (collectively, the “Property”). *The Debtor filed a Motion to Sell Property Free and Clear of Liens, Encumbrances, and Other Interests simultaneously with the filing of this Notice, which is available online at www.nceb.uscourts.gov.*

PROPOSED PUBLIC SALE DATE

The public sale will be held on March 6, 2019, at 10:00 a.m. at 10952 County Home Road, Ayden, Pitt County, North Carolina.

COMMISSIONS TO AUCTIONEER

On January 19, 2017, an Order Allowing Application to Employ and Compensate Auctioneer was entered employing COUNTRY BOYS AUCTION & REALTY, INC. (“Country Boys”) as the Debtor’s auctioneer [DE-54]. Pursuant to Local Bankruptcy Rule 6005-1(a) and the Administrative Guidelines, Country Boys shall receive the following commission relating to the proposed sale of the Property:

1. Twenty-percent (20%) of the first \$20,000.00 of personal property sold;
2. Ten-percent (10%) of the next \$50,000.00 of personal property sold; and
3. Four-percent (4%) of the remaining balance of personal property sold.

(collectively, the “Auctioneer’s Commission”).

REQUESTS FOR ADDITIONAL INFORMATION

Any party desiring additional information concerning the proposed sale or this Notice should contact TRAWICK H. STUBBS, JR. or JOSEPH Z. FROST of STUBBS & PERDUE, P.A., 9208 FALLS OF NEUSE RD., SUITE 201, RALEIGH, NC 27615, (919) 870-6258, (919) 870-6259 (facsimile). The Debtor is proposing an orderly, advertised public sale of the Property in a manner the Debtor believes will generate the maximum proceeds for distribution to all creditors. All distributions of the proceeds of sale will be in accordance with any existing security instruments, Orders of the Bankruptcy Court and the priorities set forth in the Bankruptcy Code.

DISCLAIMER

THE BANKRUPTCY COURT HAS NOT REVIEWED THE INFORMATION PROVIDED IN THIS NOTICE OR THE MOTION TO SELL PERSONAL PROPERTY FREE AND CLEAR OF LIENS, ENCUMBRANCES, AND OTHER INTERESTS (THE “SALE MOTION”) AND HAS NOT OFFERED AN OPINION AS TO ITS ACCURACY, SUFFICIENCY OR COMPLETENESS. IT IS ANTICIPATED THAT THE BANKRUPTCY COURT MAY REVIEW THE DISCLOSURES MADE HEREIN AT THE HEARING IN CONSIDERATION OF THE MOTION. THE PURPOSE OF THIS NOTICE IS TO PROVIDE CREDITORS WITH INFORMATION CONCERNING THE DEBTOR AND THE PROPOSED PUBLIC SALE, IN ADVANCE OF THE SALE. THE DEBTOR, THROUGH COUNSEL, WILL ATTEMPT TO RESPOND TO ALL REASONABLE INQUIRIES CONCERNING THE INFORMATION PROVIDED HEREIN. PARTIES-IN-INTEREST ARE ENCOURAGED TO SEEK THE ADVICE OF COUNSEL TO MORE FULLY DETERMINE THEIR RIGHTS WITH RESPECT TO THE SALE CONTEMPLATED HEREIN.

GENERAL INFORMATION

The Debtor is an individual resident and citizen of Dunn, Johnston County, North Carolina, and is engaged in agricultural farming operations in and around Johnston County and Sampson County. The Debtor filed a voluntary petition seeking relief under chapter 13 of the Bankruptcy Code on August 9, 2016 (the “Petition Date”), BK Case No. 16-04139-5-DMW (the “Bankruptcy Case”), and JOHN F. LOGAN (“Mr. Logan” or “Trustee”) was appointed as Chapter 13 Trustee to administer the Bankruptcy Case.

The Property subject to the public sale is further described as follows:

1. John Deere 8120, Serial No. RW8120P003147 (“JD 8120”);
2. John Deere 4840, Serial No. 016192RW, and 630 John Deere Harrow, Serial No. N00630X014446 (collectively, “JD 4840”); and
3. KMC Cultivator, Serial No. 87742 (“KMC”).

Additional personal property and assets may be added to this sale only if specifically agreed to by the Debtor and any creditors holding liens on such asset.

Proceeds from the sale will be distributed pursuant to the priority of liens, the confirmed Plan, or according to separate Orders of this Court. Due to the manner of sale, it is unknown whether proceeds will be available for distribution to unsecured creditors.

THE PROPERTY DESCRIBED HEREIN WILL BE SOLD FREE AND CLEAR OF ALL ENCUMBRANCES, LIENS, INTERESTS AND CLAIMS, INCLUDING ALL CLAIMS AND POTENTIAL CLAIMS OF SECURED CREDITORS, TAXING AND OTHER GOVERNMENTAL AUTHORITIES, AND REMAINING CREDITORS OF THE ESTATE.

Typically, a sale of the type proposed by the Debtor requires the following attributes:

1. Sound business reason;
2. Accurate and reasonable notice;
3. Fair and reasonable price; and
4. Existence of good faith.

The Debtor believes the foregoing requirements are satisfied by way of this Notice and the Debtor’s Motion. First, the proceeds from a sale of the Property will reduce the claims of certain creditors. Second, the Debtor asserts that this Notice provides suitable information necessary to determine whether or not to oppose the sale. Additional information can be obtained by contacting the undersigned attorney. Third, the Debtor asserts that the sale, adequately noticed, provides a fair means of liquidating the Property. Finally, the Debtor asserts that the proposed sale will be conducted in good faith and should bring a fair price for the Property. The Debtor will retain no interest in the Property following the sale.

FURTHER NOTICE IS HEREBY GIVEN that any objection to the proposed public sale must be filed with the Clerk, U.S. Bankruptcy Court, with a copy served on the counsel for the Debtor, whose names appear at the bottom of this Notice, on or before **FEBRUARY 28, 2019, at 9:30 A.M.** (the “Response Deadline”). If a response and a request for a hearing is filed by a party in interest in writing within the time indicated, a hearing will be conducted on this Notice and the Motion and any response thereto on **FEBRUARY 28, 2019 at 9:30 A.M.** (the “Hearing Date” or the “Hearing Time”) at the United States Bankruptcy Court, 300 Fayetteville Street, 2nd Floor Courtroom, Raleigh, North Carolina (the “Hearing Location”). Any party filing an objection shall appear at said hearing in support of such request or he may be assessed Court costs. If no objection to the sale is timely filed, the Court may rule on this Notice and the Debtor’s Motion and Response thereto *ex parte* without further notice.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is, and at all times hereinafter was, more than eighteen (18) years of age and on this day, a copy of the foregoing **NOTICE OF PROPOSED PUBLIC SALE AND COMMISSIONS TO AUCTIONEER** was electronically filed utilizing the CM/ECF system, notification of which was remitted to the following CM/ECF participants:

Marjorie K. Lynch, Esq.
OFFICE OF THE
BANKRUPTCY ADMINISTRATOR
434 Fayetteville Street, Suite 640
Raleigh, North Carolina 27601

John F. Logan, Esq.
OFFICE OF THE CHAPTER 13
TRUSTEE
Post Office Box 61039.
Raleigh, North Carolina 27661-1039
Chapter 13 Trustee

A. Scott McKellar
BATTLE, WINSLOW, SCOTT &
WILEY, P.A.
Post Office Box 7100
Rocky Mount, NC 27804-0100
*Counsel for Cape Fear Farm Credit,
ACA*

Brian D. Darer
Michael J. Crook
Parker Poe Adams & Bernstein LLP
301 Fayetteville St., Ste. 1400
P.O. Box 389
Raleigh, NC 27602
*Counsel for Western Equipment Finance,
Inc.*

The undersigned further certifies that those non-CM/ECF participants set forth on attached **EXHIBIT A** and below were served a copy of the foregoing by depositing the same in an envelope, bearing sufficient postage for mailing via first-class mail delivery, addressed as follows:

CHARLES HARVEY JACKSON
1181 Highway 55
Dunn, North Carolina 28334

COUNTRY BOYS AUCTION & REALTY
Attn: Mike Gurkins, President
1211 West 5th Street
Washington, North Carolina 27889

CAPE FEAR FARM CREDIT, ACA
Attn: Nancy Byrd, Assistant Vice President
Or Attn: Manger, Officer, Agent
Post Office Box 2405
Fayetteville, North Carolina 28301

CAPE FEAR FARM CREDIT, ACA
Attn: Manager, Agent, or Officer
Post Office Box 2405
Fayetteville, North Carolina 28301

CNH Industrial Capital America, LLC
Attn: Manager, Officer, Agent
PO Box 3600
Lancaster, PA 17604

Western Equipment Finance, Inc.
Attn: R. Steffan
Or Attn: Manager, Officer, Agent
503 Hwy 2 W
Devils Lake, ND 58301

Executed this, the 15th day of February, 2019.

s/Joseph Z. Frost
JOSEPH Z. FROST, NCSB No. 44387
jfrost@stubbsperdue.com

STUBBS & PERDUE, P.A.
9208 Falls of Neuse Road, Suite 201
Raleigh, North Carolina 27615

Label Matrix for local noticing
0417-5
Case 16-04139-5-DMW
Eastern District of North Carolina
Raleigh
Fri Dec 8 13:20:49 EST 2017

~~Harvey Fertilizer and Gas Co.
c/o J. Michael Fields
Ward and Smith, P. A.
PO Box 8088
Greenville, NC 27835-8088~~

~~Western Equipment Finance, Inc.
c/o Parker Poe Adams & Bernstein LLP
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601-2172~~

Ally Bank
PO Box 130424
Roseville, MN 55113-0004

CNH Industrail Capital
Attn: Manager, Agent, Officer
P.O. Box 3600
Lancaster, PA 17604-3600

Cape Fear Farm Credit ACA
Attn: Manager, Agent, Officer
P.O. Box 368
Dunn, NC 28335-0368

Deere & Company
John Deere Financial
PO Box 6600
Johnston, IA 50131-6600

(p)FORD MOTOR CREDIT COMPANY
P O BOX 62180
COLORADO SPRINGS CO 80962-2180

IRS
Alamance Bldg Mail Stop 24
4905 Koger Blvd
Greensboro, NC 27407-2734

John Deere
2214 N. Main Street
Fuquay Varina, NC 27526-8572

Country Boys Auction And Realty Company, Inc
1211 W. 5th Street
PO Box 1903
Washington, NC 27889-1903

~~Harvey Fertilizer and Gas Co.
c/o J. Michael Fields, Esq.
Ward and Smith, P.A.
Post Office Box 8088
Greenville, NC 27835-8088~~

~~U. S. Bankruptcy Court
300 Fayetteville Street, 4th Floor
P.O. Box 791
Raleigh, NC 27602-0791~~

Attorney General
950 Pennsylvania Avenue NW
Washington, DC 20530-0009

~~CNH Industrial Capital America, LLC
PO BOX 3600
Lancaster PA 17604-3600~~

Cavalry SPV I, LLC
500 Summit Lake Drive, Ste 400
Valhalla, NY 10595-1340

First Flight Federal Credit Un
Attn: Manager, Agent, Officer
1232 E Main Street
Havelock, NC 28532-2405

Four Oaks Bank
Attn: Manager, Agent, Officer
200 E Church Street
Benson, NC 27504-1503

Internal Revenue Service
Attn: Managing Agent
PO Box 7346
Philadelphia, PA 19101-7346

~~John Deere
Quality Equipment LLC
P.O. Box 6600
Johnston, IA 50131-6600~~

~~Deere & Company
Ward and Smith, P.A.
c/o Paul A. Fanning
Post Office Box 8088
Greenville, NC 27835-8088~~

~~Stubbs & Perdue, P.A.
PO Drawer 1654
New Bern, NC 28563-1654~~

ACCU Refrence Medical Lab
Attn: Manager, Agent, Officer
1901 East Linden Ave
Suite 4
Linden, NJ 07036-1195

B & S Enterprises, Inc.
Attn: Manager, Agent, Officer
1395 US 17 South
Elizabeth City, NC 27909-7634

Cape Fear Farm Credit
333 E Russell St
P. O. Box 2405
Fayetteville, NC 28302-2405

CoBank
Attn: Manager, Agent, Officer
600 Highway 169 S.
Suite 300
Minneapolis, MN 55426-1208

(p)FIRST FLIGHT FEDERAL CREDIT UNION
1815 KILDAIRE FARMS RD
STE A
CARY NC 27518-6562

Harvey Fertilizer and Gas Co
Attn: Manager, Agent, Officer
P.O. Box 8088
Greenville, NC 27835-8088

JOHNSTON COUNTY TAX COLLECTOR
PO BOX 451
SMITHFIELD, MT 27577-0451

John M. Sperati
PO Box 26268
Raleigh, NC 27611-6268

Johnston County Tax Coll
Attn: Managing Agent
PO Box 451
Smithfield, NC 27577-0451

MIDLAND FUNDING LLC
PO BOX 2011
WARREN, MI 48090-2011

N.C. Dept. of Commerce, DES
Attn: Manager or Agent
P.O. Box 26504
Raleigh, NC 27611-6504

NC Department of Revenue
Attn: Manager, Agent, Officer
P.O. Box 1168
Raleigh, NC 27602-1168

~~NC Dept of Revenue
Attn: Managing Agent
PO Box 1168
Raleigh, NC 27602-1168~~

NC Sweet Potato Commission Inc
Attn: Manager, Agent, Officer
700 East Parrish Drive
Suite C
Benson, NC 27504-1759

Nexsen Pruet, PLLC
Attn: Manager, Agent, Officer
P.O. Box 3463
Greensboro, NC 27402-3463

Northland Capital
Attn: Manager, Agent, Officer
333 33rd Ave South
Saint Cloud, MN 56301-5495

~~Northland Capital Financial Services, LLC
333 33rd Ave South
Saint Cloud, MN 56301-5495~~

Parrish Oil Company
Attn: Manager, Agent, Officer
827 S Wall Street
Benson, NC 27504-6475

Quality Equipment LLC
Attn: Manaer, Agent, Officer
2214 N. Main Street
Fuquay Varina, NC 27526-8572

Secretary of Treasury
ATTN: Managing Agent
1500 Pennsylvania Ave NW
Washington, DC 20220-0001

Securities & Exchange Comm
Office of Reorganization
950 E Paces Ferry Rd NE 900
Atlanta, GA 30326-1382

Syncb/Care Credit
Attn: Manager, Agent, Officer
P.O. Box 965064
Orlando, FL 32896-5064

Syncb/Lowes
Attn: Manager, Agent, Officer
P.O. Box 965064
Orlando, FL 32896-5064

United States Attorney
ATTN: Civil Process Clerk
310 New Bern Avenue
Federal Bldg Suite 800
Raleigh, NC 27601-1461

Wells Fargo Bank, N.A.
Default Document Processing
N9286-01Y
1000 Blue Gentian Road
Eagan, MN 55121-7700

Wells Fargo Financial Leasing
Attn: Manager, Agent, Officer
800 Walnut Street
MAC N0005-055
Des Moines, IA 50309-3605

~~Wells Fargo Financial Leasing, Inc.
800 Walnut Street
MAC N0005-055
Des Moines, IA 50309-3605~~

Wells Fargo Home Mortgage
Attn: Manager, Agent, Officer
MAC #2302-04E POB 10335
Des Moines, IA 50306

Western Equipment Finance
Attn: Manager, Agent, Officer
P.O. Box 640
Devils Lake, ND 58301-0640

~~Western Equipment Finance
PO box 640
Devils Lake ND 58301-0640~~

Western Equipment Finance, Inc.
Attn: R. Steffan
503 Hwy 2 W
Devils Lake, ND 58301-2938

~~Charles Harvey Jackson
1181 Highway 55
Dunn, NC 28334~~

~~John F. Logan
Office Of The Chapter 13 Trustee
PO Box 61039
Raleigh, NC 27661-1039~~

~~Joseph Zachary Frost
Stubbs & Perdue, P.A.
9208 Falls of Neuse Road
Raleigh, NC 27615-2437~~

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

First Flight Federal Credit Union
1815 Kildarie Farm Rd., Ste. A
Cary, NC 27518

Ford Motor Credit
Attn: Manager, Agent, Officer
P.O. Box 62180
Colorado Springs, CO 80962

(d)Ford Motor Credit Company LLC
Dept 55953
P O Box 55000
Detroit MI, 48255-0953

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Cape Fear Farm Credit, ACA

(u)First Flight Federal Credit Union

(u)Northland Capital Financial Services, LLC

(u)Wells Fargo Bank, N.A.

(d)Cape Fear Farm Credit ACA
Attn: Manager, Agent, Officer
PO Box 368
Dunn, NC 28335-0368

(d)Harvey Fertilizer and Gas Co.
c/o J. Michael Fields, Esq.
Ward and Smith, P.A.
Post Office Box 8088
Greenville, NC 27835-8088

End of Label Matrix
Mailable recipients 55
Bypassed recipients 6
Total 61

Label Matrix for local noticing
0417-5
Case 17-00046-5-DMW
Eastern District of North Carolina
Raleigh
Fri Dec 8 13:25:50 EST 2017

B&S Enterprises, Inc of Hertford, NC
Attn: WM Brian Jennings Reigstered Agent
1395 U.S. 17 South
Elizabeth City, NC 27909-7634

Bankruptcy Administrator
Two Hannover Square, Ste. 640
434 Fayetteville Street
Raleigh, NC 27601-1701

~~Joseph Zachary Frost~~
~~Stubbs & Perdue, P.A.~~
~~9208 Falls of Neuse Road~~
~~Raleigh, NC 27615-2437~~

Jennifer Himes
Tuggle Duggins P.A.
PO Box 2888
Greensboro, NC 27402-2888

~~Charles Harvey Jackson~~
~~1181 Highway 55~~
~~Dunn, NC 28334~~

End of Label Matrix
Mailable recipients 5
Bypassed recipients 0
Total 5