

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION

IN RE:

JSMITH CIVIL, LLC,

DEBTOR.

CASE NO. 23-02734-5-JNC
CHAPTER 11

NOTICE OF PUBLIC SALE

TO ALL CREDITORS AND PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that provided no response or objection by a party in interest are filed with this Court before **NOVEMBER 6, 2023** (the “Objection Deadline”), and upon approval of the Bankruptcy Court, the personal property and equipment described herein shall be sold via auction and public sale in the means and methods described herein, by COUNTRY BOYS AUCTION & REALTY CO., INC. (“CBA”), as agent for and on behalf of, the Debtor GREGORY LANE BARNHILL (the “Debtor”) in accordance with the any Order entered by the United States Bankruptcy Court for the Eastern District of North Carolina on the *Motion for Approval of Public Sale of Personal Property Free and Clear of Claims, Liens, Encumbrances, and Interests* (the “Sale Motion”) filed contemporaneously herewith.

FURTHER NOTICE IS HEREBY GIVEN that if an objection or response and a request for a hearing is filed by a party in interest in writing before the Objection Deadline, a hearing will be conducted by the Bankruptcy Court, as follows:

<u>Hearing Date:</u>	November 7, 2023
<u>Hearing Time:</u>	10:00 A.M. ET
<u>Hearing Location:</u>	United States Bankruptcy Court for the Eastern District of North Carolina Randy D. Doub Courthouse 150 Reade Circle Greenville, North Carolina 27858

FORWARD AND INTRODUCTION

This *Notice of Public Sale* (the “Public Sale 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 the terms and conditions of the public sale and auction contemplated in the Confirmed Plan, for which approval is sought in the Sale Motion.

The personal property to be sold includes certain titled personal property owned by the Debtor, which is more specifically identified below (collectively, the “Property”). **The Debtor, pursuant to the Sale Motion, is seeking authorization to sell the Property free and clear of any and all liens and other interest, with such liens and interests attaching to the proceeds pursuant to § 363 of the Bankruptcy Code, a copy of which is available online at www.nceb.uscourts.gov or upon written request to the Trustee and/or counsel for the Debtor.**

PROPOSED PUBLIC SALE DATE, TIME, AND LOCATION

Public Sale Date: November 15, 2023
Public Sale Time: 10:00 A.M. ET
Public Sale Location: Country Boys Auction & Realty Co., Inc.
1211 West 5th Street
Washington, North Carolina 27889

(collectively referred to herein as, the “Public Sale”).

COMMISSIONS AND COMPENSATION TO AUCTIONEER

The Debtor previously sought authority to employ and compensate COUNTRY BOYS AUCTION & REALTY, INC. (“CBA”), as the auctioneer, for the purpose of assisting and conducting, inter alia, the Public Sale of the Property. Pursuant to Local Bankruptcy Rule 6005-1(a) and the Chapter 11 Administrative Guidelines, and under any Order entered by the Bankruptcy Court, CBA shall receive the following commission relating to the public 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 public sale or this *Notice of Public Sale and Auction* (the “Public Sale Notice”), should contact the following entities:

DEBTOR’S COUNSEL Joseph Z. Frost
BUCKMILLER, BOYETTE & FROST, PLLC
4700 Six Forks Road, Suite 150
Raleigh, North Carolina 27606
Telephone: 919-296-5040
Telefax: 919-977-7101
Email: jfrost@bbflawfirm.com

AUCTIONEER COUNTRY BOYS AUCTION & REALTY CO., INC.
Attn: Mike Gurkins, President
Physical Address: 1211 West 5th Street
Washington, NC 27889
Mailing Address: Post Office Box 1903
Washington, NC 27889
T: (252) 946-6007
E: mgurkins@countryboysauction.com
W: www.countryboysauction.com

The Debtor is proposing an orderly and well-advertised public sale the Property in a manner consistent with the ordinary practice and procedure employed by CBA, which it 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 PUBLIC SALE NOTICE, 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 ANY HEAREING IN CONSIDERATION OF THE PUBLIC SALE.

THE PURPOSE OF THIS NOTICE IS TO PROVIDE CREDITORS WITH INFORMATION CONCERNING THE DEBTOR AND THE PUBLIC SALE, IN ADVANCE OF SAID PUBLIC SALE. THE DEBTOR, THROUGH HIS 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, a limited liability company organized and existing under the laws of the State of North Carolina, filed a voluntary petition seeking relief under chapter 11 of the Bankruptcy Code on September 19, 2023 (the “Petition Date”), BK Case No. 23-02734-5-JNC (the “Bankruptcy Case”), and currently operates as Debtor-in-Possession.

The Property, which will be sold at the Public Sale and on the Public Sale Date, by CBA at the Public Sale Location, is more particularly described and identified on **EXHIBIT 1** attached hereto and incorporated herein by reference.¹

Proceeds from the Public Sale will be distributed pursuant to the priority of liens, interests and encumbrances in the Property, as well as the Orders of the Bankruptcy Court, including but not limited to, any Order regarding the Sale Motion. 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 BANKRUPTCY ESTATE.

Purusant to § 363 of the Bankruptcy Code, a sale of the type 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 these aforementioned requirements are satisfied, and the public sale of the Property should be allowed, based upon the following:

¹ Additional personal property, equipment and assets may be added to the Public Sale.

1. The proceeds from the public sale of the Property will pay, the costs and expenses incurred in connection with the Public Sale pursuant to §506(c) of the Bankruptcy Code, the secured claims of FIRST-CITIZENS BANK & TRUST COMPANY (“First-Citizens Bank”), TRUIST EQUIPMENT FINANCE CORP. (“Truist”), ENTERPRISE FM TRUST and ENTERPRISE FLEET MANAGEMENT, INC. (collectively, “Enterprise”), PNC EQUIPMENT FINANCE, LLC (“PNC”), and *ad valorem* taxes owed by the Debtor to the Wayne County Tax Collector, if any, on account of its ownership of the Property, with the remaining balance being distributed in accordance with the priorities of the Bankruptcy Code and/or further Orders of the Court.

2. Approval of the public sale of the Property is being contemporaneously sought herewith through the Sale Motion, which will provide creditors and parties-in-interest, with suitable information necessary to determine whether or not to oppose the Public Sale.

3. The Public Sale, as approved and adequately noticed to creditors and parties-in-interest, provides a fair means of liquidating the Property in the most efficient and cost-effective manner.

4. The Public Sale will be conducted in good faith and should bring a fair price for the Property.

5. Following the Public Sale, and consummation of the same, the Debtor will not retain any interest or title in the Property.

DATE OF NOTICE: October 20, 2023

BUCKMILLER, BOYETTE & FROST, PLLC

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Counsel for Debtor JSmith Civil, LLC

JSMITH CIVIL, LLC
BK CASE NO. 23-02734-5-JNC

YEAR	MAKE/MODEL	VIN	LIENHOLDER
2019	Chevrolet Equinox	3GNAXHEV7KS643760	First-Citizens Bank & Trust Company
2021	Dodge Ram 2500	3C6UR5HJ4MG647639	Enterprise Fleet Management, Inc.
2022	Dodge Ram 2500	3C6UR5JL1NG272578	Enterprise Fleet Management, Inc.
2021	Dodge Ram 2500	3C6UR5HJ0MG647718	Enterprise Fleet Management, Inc.
2021	Dodge Ram 2500	3C6UR5JJ8MG647721	Enterprise Fleet Management, Inc.
1998	GMC 6500	1GDJ7H1P7WJ505543	First-Citizens Bank & Trust Company
2022	Dodge Ram 2500	3C6UR5DL0NG272664	First-Citizens Bank & Trust Company
2019	Chevrolet Silverado HD Crew 2500	1GC1CREG7KF187646	First-Citizens Bank & Trust Company
2021	Dodge Ram 2500	3C6UR5JJXMG647722	Enterprise Fleet Management, Inc.
2022	Dodge Ram 3500	3C63R3GL8NG206827	Enterprise Fleet Management, Inc.
2016	Dodge Ram 4500	3C7WRKFLXGG387985	First-Citizens Bank & Trust Company
2017	Chevrolet Silverado 1500	3GCUKRECXHG203200	N/A
2011	GMC Sierra 1500	1GTR2UEA7BZ191473	First-Citizens Bank & Trust Company
2018	Dodge Ram 2500	3C6UR5FL6JG224433	First-Citizens Bank & Trust Company
2020	Dodge Ram 2500	3C6UR5CLXLG269155	First-Citizens Bank & Trust Company
2012	Ford F-350	1FT8W3DTXCEC68097	PNC Equipment Finance, LLC
2016	Chevrolet Silverado 2500	1GC1KUEG8GF289440	N/A
2016	GMC Sierra 2500	1GT11REG5GF111680	N/A
2017	Chevrolet Silverado 1500	1GCPNCEC1HF193533	First-Citizens Bank & Trust Company
2013	Chevrolet Silverado 1500	3GCPKSEA5DG291831	First-Citizens Bank & Trust Company
2018	Chevrolet Traverse	1GNEVKKW6JJ103642	Truist Equipment Finance Corp.
2020	Chevrolet Equinox	3GNAXKEV0LS713761	N/A
2016	Chevrolet Silverado 2500	1GB1KUEG1GF226197	N/A
2018	Kenworth W9 Series	1NKWGGGG80J255067	PNC Equipment Finance, LLC
2017	XL Specialized Trailer XL 110 HDG with 4th Stinger Axle (Model: XL24FA)	4U3J05336HL016596; 4U3S00515ML019969	PNC Equipment Finance, LLC