

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 **JULY 15, 2024 AT 5:000 P.M. EST** (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, INC. (“CBA”), as agent for and on behalf of, the Debtor JSMITH CIVIL, LLC (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 [D.E. 388] (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 telephonic hearing will be conducted by the Bankruptcy Court, as follows:

<u>Hearing Date:</u>	July 16, 2024
<u>Hearing Time:</u>	2:00 P.M. ET
<u>Hearing Location:</u>	Telephonic
	Telephone Number: 888-273-3658
	Access Code: 3113071

FORWARD AND INTRODUCTION

This *Amended 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: July 17, 2024
Public Sale Time: 10:00 A.M. ET
Public Sale Location: Country Boys Auction & Realty, 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, and obtained, 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. Pursuant to Local Bankruptcy Rule 6005-1(a) and the Chapter 11 Administrative Guidelines and the Order Allowing Application for Employment and Compensation of Country Boys Auction & Realty Co, Inc. [D.E. 91] (the “CBA Employment Order”) entered by the Bankruptcy Court, CBA shall receive the following commission relating to the public sale:

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, 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 in a manner consistent with the ordinary practice

and procedure employed by CBA, which one could believe 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 HEARING 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 personal property, which will be sold by CBA at the Public Sale and on the Public Sale Date, is more particularly described and identified as follows:

Description	Serial No.
2020 CAT CC348 Asphalt Compactor	CC300388

(the "Subject Property" or the "Property").

Proceeds from the Public Sale will be distributed pursuant to the priority of liens, interests and encumbrances in the Subject 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 SUBJECT 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.

Pursuant 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. The proceeds from the public sale of the Subject 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 TRUIST EQUIPMENT FINANCE CORP. (“Truist”), FIRST-CITIZENS BANK & TRUST COMPANY (“First-Citizens Bank”), HEAVY EQUIPMENT LEASING NC, and WESTFIELD INSURANCE COMPANY, and *ad valorem* taxes owed by the Debtor to the WAYNE COUNTY TAX COLLECTOR, if any, on account of its ownership of the Subject 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 Subject 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 Subject 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 Subject Property.
5. Following the Public Sale, and consummation of the same, the Debtor will not retain any interest or title in the Subject Property.

DATE OF NOTICE: July 12, 2024

BUCKMILLER, BOYETTE & FROST, PLLC

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