

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC) Case No. 10-93904-BHL-11
)
Debtor.)

**MOTION FOR SECOND EXTENSION OF MAY 2, 2011 BAR DATE
FOR FILING OF THE GIBSON TRUSTEE'S PURCHASE MONEY CLAIMS**

Kathryn L. Pry, chapter 7 trustee of the bankruptcy estate of Thomas P. Gibson and Patsy M. Gibson (the "Gibson Bankruptcy Estate"), Case No. 10-93867-BHL-7A (the "Gibson Trustee"), by counsel, for her *Motion for Second Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* (this "Motion"), states as follows:

1. The Gibson Trustee was appointed on December 1, 2010 (the "Gibson Petition Date") and continues to investigate and identify assets of Thomas P. Gibson and Patsy M. Gibson (the "Gibsons").
2. On January 24, 2011, this Court entered the *Order Granting Trustee's Emergency Motion Regarding Payments on Debtor's Cattle Sales* (the "Order") [Docket No. 234]. The Order establishes a bar date of May 2, 2011, for filing of all "Purchase Money Claims". Among other things, paragraph I. of the Order provides that any person that holds or wishes to assert a Purchase Money Claim must file a proof of claim, together with all supporting documentation, on or before 11:59 P.M. on May 2, 2011.
3. The Order authorized the Trustee to complete the sale of cattle free and clear of liens, claims, encumbrances and interests pursuant to Bankruptcy Code § 363 and to accept payment of purchase money "Purchase Money" with all liens, claims, encumbrances and interests attached thereto and to establish a segregated account for the purpose of holding the

Purchase Money. The Order defines “Purchase Money Claims” as any lien, claim, encumbrance or interest that may be asserted against the Purchase Money. The Gibson Trustee believes that the claims she may assert against the Debtor constitute Purchase Money Claims as defined therein.

4. Additionally, the Court’s order of March 31, 2011 established a bar date for filing all claims of May 2, 2011. While the Eastern Livestock Trustee’s Motion acknowledges that the Court previously set a bar date for Purchase Money Claims, it does not except Purchase Money Claims from the operation thereof.

5. The Gibson Trustee filed her *Motion for Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee’s Purchase Money Claims* [Docket No. 473] and the Court entered the *Order Granting Motion for Extension of May 2, 2011, Bar Date for Filing of the Gibson Trustee’s Purchase Money Claims* on May 13, 2011 [Docket No. 495] extending the deadline for filing the Gibson Trustee’s Purchase Money Claims and its Proof of Claim to August 1, 2011.

6. Despite extensive discovery efforts, the Gibson Trustee has been unable to completely track all of the various cattle transactions of the Gibsons. Additionally, because claims that could be filed by First Bank and Trust Company (“First Bank”) may involve the same Purchase Money, the Gibson Trustee and her counsel have joined in the discovery efforts of First Bank.

7. These efforts include numerous inquiries to the Eastern Livestock Trustee seeking information regarding transaction that may have involved cattle owned by the Debtors. The Gibson Trustee and her counsel have met with representatives of DSI on at least two occasions and reviewed various documents that may be relevant to the Gibson Trustee’s ability to determine whether or not she has a claim to the funds on deposit in the Eastern Livestock

Trustee's segregated account. DSI and the Eastern Livestock Trustee's counsel have been cooperative and produced small batches of documents to date. On June 23, 2011, counsel for the Gibson Trustee and counsel for First Bank, visited Eastern Livestock and requested more than two dozen boxes of documents which First Bank confirmed via digital video. DSI is still in the process of copying a significant number of those documents which are necessary to enable the Gibson Trustee to be able to determine whether she has a Purchase Money Claim.

8. Additionally, First Bank has served numerous information requests on various entities, including feedlots like Cactus Growers, Inc. ("Cactus"), Friona Industries, L.P. ("Friona"), and J&F Oklahoma Holdings, Inc. (including the captive feedlot JBS Five Rivers ("J&F")) (collectively, "Three Major Feedlots"), as well as Agri-Beef (Supreme Feeders), Cattlemen's Feedlot, Ltd., Heritage Feeders and Irsik & Doll ("Royal Beef"). First Bank's efforts are continuing.

9. In addition to joint discovery efforts with First Bank, the Gibson Trustee continues in her investigation of whether the Gibson Bankruptcy Estate has a Purchase Money Claim.

10. Pursuant to Rule 3003(c)(3) of the Federal Rules of Bankruptcy Procedure, a court is permitted to extend the deadline for filing proof of claims "for cause shown." Further, Rule 9006(b)(1) allows the court for cause shown to order the period enlarged if the request is made before the expiration of the period originally prescribed or as extended by a previous order.

11. Based on the complexities of the transactions involved in this case and the Gibsons' Bankruptcy Case, and the need for additional discovery as set forth above, the Gibson Trustee has demonstrated the necessary cause for extending the deadline to file Purchase Money Claims on behalf of the Gibson Bankruptcy Estate. Additionally, this Motion is made before the

expiration of the current deadline of August 1, 2011 and is not being made for the purpose of delay or any other improper purpose.

12. Based on the reasons stated above, the Gibson Trustee requests an extension of ninety (90) days for the deadline to file on behalf of the Gibson Bankruptcy Estate Purchase Money Claims previously set in this Court's orders of January 24, 2011 and March 31, 2011 and previously extended to August 1, 2011.

WHEREFORE, the Gibson Trustee, by counsel, respectfully requests that the Court enter an Order extending the August 1, 2011 extended bar date to file Purchase Money Claims on behalf of the Gibson Bankruptcy Estate for an additional period of ninety (90) days, to and including October 30, 2011, which date falls on a Sunday, making the bar date to file Purchase Money Claims on behalf of the Gibson Bankruptcy Estate October 31, 2011, and for all other just and proper relief.

Respectfully submitted,

DALE & EKE, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2011, a copy of the foregoing *Motion for Second Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on July 26, 2011, a copy of the foregoing *Motion for Second Extension of May 2, 2011 Bar Date for Filing of the Gibson Trustee's Purchase Money Claims* was mailed by first-class U.S. Mail, postage prepaid, and properly addressed to the following:

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