

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: ) Chapter 11  
 )  
EASTERN LIVESTOCK CO., LLC, et al.,<sup>1</sup> ) Case No. 10-93904-BHL-11  
 )  
Debtors. ) JOINTLY ADMINISTERED

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**MOTION FOR ORDER APPROVING PROPOSED AUCTION SALE OF REAL  
ESTATE FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES  
PURSUANT TO 11 U.S.C. § 363**

James A. Knauer, chapter 11 trustee ("Trustee") in the above-captioned case ("Chapter 11 Case"), seeks the entry of an order, pursuant to section 363 of title 11 of the United States Code (the "Bankruptcy Code") authorizing the Trustee to sell the real estate located in Harrison County, Indiana commonly known as 8394 Tandy Road, Lanesville, Indiana (the "Real Estate") pursuant to the terms and conditions of the Auction Listing Contract (the "Agreement") with Ken Byrd Realty & Auction, Inc. ("Ken Byrd Auction").<sup>2</sup> In support of this motion (the "Motion"), the Trustee respectfully represents as follows:

1. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2). Venue is proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are section 363(b) of the Bankruptcy Code and Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure.

3. The Trustee and Peoples Bank & Trust Company of Pickett County ("Peoples") are parties to that certain Settlement Agreement dated January 27, 2012 (the "Settlement Agreement") by which, subject to Court approval, the Trustee agreed to seek authority to

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<sup>1</sup> The Debtor entities are Eastern Livestock Co., LLC and Okie Farms, L.L.C.

<sup>2</sup> A separate motion seeking authority to employ Ken Byrd Auction was filed contemporaneously with the filing of this Motion. The Agreement is attached as Exhibit A to the motion seeking authority to hire Ken Byrd Auction.

conduct an auction sale of the Real Estate. This Application is filed pursuant to the terms of and in furtherance of the Settlement Agreement.

4. The Trustee believes, in his business judgment that an auction sale of the Real Estate on or after April 7, 2012, either as a single tract or in multiple tracts, pursuant to the terms and conditions of the Agreement and Settlement Agreement will result in the greatest recovery for Debtor's estate.

5. The Trustee also believes that allowing the successful bidder at the auction sale of the Real Estate to pay 10% of the winning bid at the auction, with the remaining 90% to be paid within thirty (30) days (all as provided in the Agreement), will incentivize bidding and maximize the purchase price to be realized from the sale of the Real Estate. Accordingly, the Trustee asks that, for purposes of Rule B-6005-1, the "date of sale" of the Real Estate be deemed to occur upon the earlier of i) the date that Ken Byrd Auction receives the "Gross Sales Proceeds" and ii) the date the Trustee receives his share of the "Net Sales Proceeds" (if Peoples submits the successful bid at the auction).<sup>3</sup>

6. Ken Byrd Auction is duly qualified to conduct an auction sale of the Real Estate.

**WHEREFORE**, the Trustee respectfully requests that the Court enter an order (i) authorizing the Trustee to enter into the Agreement and sell the Real Estate at auction on April 7, 2012 (or as soon thereafter as practical) free and clear of all liens, claims and encumbrances pursuant to the terms and conditions described herein, with all liens, claims and encumbrances to attach to the proceeds of the sale; and (ii) granting such other and further relief as this Court deems just.

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<sup>3</sup> "Gross Sales Proceeds" and "Net Sales Proceeds" are defined in the Settlement Agreement. *See* Dock. No. 990.

Respectfully submitted,

FAEGRE BAKER DANIELS, LLP

By: /s/ Dustin R. DeNeal

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2012, a copy of the foregoing pleading 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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