

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
PIKE NURSERY HOLDING LLC,)	CASE NUMBER: 07-79129-mgd
)	
Debtor.)	
_____)	

TRUSTEE'S MOTION FOR ORDER APPROVING SALE OF AUTOMOBILE

COMES NOW Marcus A. Watson, the Chapter 7 Trustee of Pike Nursery Holding LLC, and hereby moves (the "Motion") this Court for entry of an order pursuant to Sections 105(a) and 363 of Title 11, United States Code (the "Bankruptcy Code") and Rules 2002, 6004, and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") approving the sale of a 2001 Toyota Sequoia automobile owned by the bankruptcy estate. In support of this Motion, the Trustee respectfully represents as follows:

1. On November 14, 2007 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.
2. On March 17, 2008, the Court entered an Order Directing the United States Trustee to Appoint Chapter 11 Trustee in this bankruptcy case. On March

19, 2008, the Court approved the United States Trustee's application to appoint Marc A. Watson as the Chapter 11 Trustee for the Debtor.

3. On March 24, 2008, the Court converted the case to Chapter 7 and Marcus A. Watson was subsequently appointed as the Chapter 7 Trustee.

4. On March 3, 2008, the Court entered a series of orders approving the sale of virtually all of the Debtor's wholesale and retail businesses and related assets. The Debtor thereafter ceased operations.

5. In connection with its operations, the Debtor used a 2001 Toyota Sequoia automobile ("Auto") that currently has 101,000 miles on it. The Auto is in poor condition and has certain engine and body maintenance issues.

6. The Trustee has accepted, subject to bankruptcy court approval, an offer to sell the Auto for \$4,000 in cash to Justin Armstrong, 3615 Settingdown Road, Cumming, Georgia 30028. Mr. Armstrong was previously an employee of the Debtor.

7. The Trustee seeks approval to sell the Auto for the sale price of \$4,000 to Justin Armstrong.

8. The sale of the Auto shall be free and clear of all liens, claims and encumbrances with any applicable liens, claims and encumbrances attaching to the proceeds of the sale in the same order and priority as to the personal property.

9. The paramount goal for any proposed sale of the property of a bankruptcy estate is to maximize the proceeds received by the estate. See, e.g., Four B. Corp. v. Food Barn Stores, Inc. (In re Food Barn Stores, Inc.), 107 B.R. 558, 564-65 (8th Cir. 1997) (in bankruptcy sales, “a primary objective of the Code [is] to enhance the value of the estate at hand”); Integrated Resources, 147 B.R. at 659 (“It is a well-established principle of bankruptcy law that the objective of bankruptcy sales and the Debtors’ duty with respect to such sales is to obtain the highest price or overall greatest benefit possible for the estate.”) (quoting In re Atlanta Packaging Prods., Inc., 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988)).

10. Section 363(b)(1) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” Moreover, Section 105(a) of the Bankruptcy Code provides that the bankruptcy courts “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].”

11. The Trustee believes that good cause exists to authorize the sale of the Auto as proposed herein. The sale price represents a fair value for the Auto in its current condition.

12. Pursuant to the Bankruptcy Rule 6004 and Section 363(f), the sale of the Auto will be free and clear of all liens, claims, interests and encumbrances and sold "AS IS" "WHERE IS" with a full disclaimer of any warranties. The Trustee proposes that any liens attach to the proceeds of the transaction received by the bankruptcy estate, with the same priority and validity that such liens existed on the Auto. The Trustee believes that the referenced method for the attachment of liens adequately meets Section 363(f).

13. Notice of this Motion has been given in accordance with the Order Establishing Notice Procedures entered in this case.

WHEREFORE, the Trustee requests that the Court enter an Order approving the sale of the Auto in accordance with 11 U.S.C. § 363 and Bankruptcy Rules 2002 and 6004 for \$4,000 to Justin Armstrong.

This 3rd day of March, 2009.

/s/ John A. Christy
JOHN A. CHRISTY
Georgia Bar No. 125518
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Attorneys for Marcus A. Watson,
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)	
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Debtor.)	
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NOTICE OF HEARING

PLEASE TAKE NOTICE that Marcus A. Watson, Chapter 7 Trustee, has filed Trustee's Motion for Order Approving Sale of Automobile ("Motion") seeking authority to sell a 2001 Toyota Sequoia automobile.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in Courtroom 1201, United States Courthouse, 75 Spring Street, S.W., Atlanta, Georgia, at 10:30 a.m. on March 26, 2009.

Your rights may be affected by the Court's ruling on the Motion. You should read the Motion carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the Motion with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so

that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below and if possible also e-mail a copy to the undersigned at the e-mail address noted below.

This 3rd day of March, 2009.

/s/ John A. Christy

John A. Christy, Esq.

Georgia Bar 125518

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CERTIFICATE OF SERVICE

This is to certify that the undersigned served a copy of within and foregoing Trustee's Motion for Order Approving Sale of Automobile and Notice of Hearing was served via the ECF system where indicated or by first class United States mail in properly addressed envelopes with sufficient postage affixed thereon, to insure delivery upon the parties listed on the Master Service List which is attached hereto as **Exhibit "A"**.

This 3rd day of March, 2009.

/s/ J. Carole Thompson Hord
J. CAROLE THOMPSON HORD

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