

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:)
)
Zone 5, Inc. f/k/a/ Zone V Lithographic) Chapter 7
Pre-Press, Inc.,) Case No.: **17-11087**
)
)
)
Debtor.)

Notice of Motion

On **February 28, 2018, at 9:15 a.m.**, Philip J. Danaher, the Chapter 7 Trustee, has made an application returnable before the Hon. Robert E. Littlefield, Jr., United States Bankruptcy Judge, at the James T. Foley Federal Courthouse, 445 Broadway, Albany, New York 12207, for the entry of an Order approving and authorizing the Trustee to: (1) retain All Points Property Management, Gerald T. Leach, Jr., Proprietor, as Auctioneer for the Bankruptcy Estate (the "Estate"); and (2) to sell the property (the "Property") of the Estate consisting of a 2010 Audi S5 Automobile, V8 4.2 Liter Engine, All-Wheel Drive, with approximately 39,000 miles, pursuant to Bankruptcy Code § 363(b), As Is, Where Is, subject to all valid liens and encumbrances, with no warranties or guarantees, (the Trustee is not aware of any valid liens or encumbrances on the subject property), or to (3) abandon such Property of the Estate if it is determined to have little or no value by the Chapter 7 Trustee after Auction Sale is attempted. The auction sale is currently scheduled to take place on Wednesday, February 28, 2018, commencing at 9:15 a.m., at the U.S. Bankruptcy Court located on the third floor of the James T. Foley Federal Courthouse, 445 Broadway, Albany, New York 12207.

The sale of the Property shall be to the highest bidder(s). The Chapter 7 Trustee reserves the right to reject any and all bids that do not conform to the sale requirements or are deemed insufficient. The minimum bid for the subject property is \$8,500.00, with increments of at least \$100.00 thereafter.

Your rights may be affected.

Your rights may be affected by the sale of the Property. You should read these papers carefully and discuss them 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 WANT THE COURT TO CONSIDER YOUR VIEWS ON THIS RETENTION AND SALE, THEN BY NO LATER THAN SEVEN (7) DAYS PRIOR TO THE DATE OF THE PROPOSED RETURN DATE, A WRITTEN OBJECTION MUST BE RECEIVED AT THE CLERK'S OFFICE, UNITED STATES BANKRUPTCY COURT, JAMES T. FOLEY COURTHOUSE, 445 BROADWAY, ALBANY, NEW YORK 12207, AND BY THE TRUSTEE, PHILIP J. DANAHER, CHAPTER 7 TRUSTEE, 1001 GLAZ STREET, EAST GREENBUSH, NEW YORK 12061.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, IT MAY BE ASSUMED THAT YOU DO NOT OPPOSE THE SALE AND THE COURT MAY AUTHORIZE THE TRUSTEE TO CONDUCT THE SALE OF THE PROPERTY AT THE TIME, DATE AND PLACE LISTED ABOVE.

Basic terms of sale.

The sale of the Property shall be subject to the following basic terms and conditions:

1. The Property is to be sold "as is" and "where is" without representations or warranties of any kind.
2. The Property is to be sold pursuant to Bankruptcy Code § 363(b).
3. The sale of the Property is subject to approval by the United States Bankruptcy Court.
4. The Property is to be sold for certified funds, U. S. Postal Money Order or bank draft drawn on a New York State Licensed Financial Institution, with all funds to be paid to the Chapter 7 Trustee on the date of the sale. The successful bidder(s) shall be responsible for immediate removal of all property sold in the auction after full payment is made to the Chapter 7 Trustee. The successful bidder(s) will be provided with a Trustee's Bill of Sale. The successful bidder(s) will be responsible for all transfer fees and taxes required by the State of New York relative to any vehicle(s) sold herein.

Inspection of Property.

1. Information regarding the Property, or to schedule an inspection of the subject property can be obtained by contacting either the Auctioneer, All Points Property Management, at telephone number (518) 376-2756 or the Trustee at telephone number (518) 463-4383.

Copies of the full application are available upon request from the Office of the Chapter 7 Trustee.

DATED: January 17th, 2017

Philip J. Danaher, Chapter 7 Trustee
Bar Code 101450
1001 Glaz Street
East Greenbush, New York 12061
Tel. (518) 463-4383

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:)
)
Zone 5, Inc. f/k/a Zone 5 Lithographic)
Pre-Press, Inc.,)
)
Debtor.)

Chapter 7
Case No. 17-11087

Motion to Retain Professional and Sell Property of the Estate

TO THE HONORABLE ROBERT E. LITTLEFIELD, JR.

Philip J. Danaher, Chapter 7 Trustee in the above-captioned bankruptcy proceeding (the "Trustee") for the Estate (the "Estate"), pursuant to Title 11 of the United States Code §327(a), seeks to retain All Points Property Management, Gerald T. Leach, Jr., Proprietor, (the "Firm") as Auctioneer for the Trustee, and pursuant to Title 11 of the United States Code §363(b), seeks to sell certain property of the Estate consisting of 2010 Audi S5 Automobile, V8 4.2 Liter Engine, All-Wheel Drive, with approximately 39,000 miles, or abandon such property pursuant to Bankruptcy Code § 554 should such property be determined to have little or no value by the Chapter 7 Trustee after auction sale is attempted, and respectfully represents as follows:

PARTIES, JURISDICTION AND VENUE

1. Zone 5, Inc. f/k/a Zone V Lithographic Pre-Press, Inc., (the "Debtor") filed a voluntary petition for relief under Chapter 11 of the United States Code (the "Bankruptcy Code") on or about June 8, 2017, with the Bankruptcy Court (the "Court") for the Northern District of New York (the "District"). On January 5, 2018, this case was converted to a case under Chapter 7.

2. On January 5, 2018, I was appointed Chapter 7 Trustee pursuant to Bankruptcy Code §701. Among other things, I am authorized to liquidate the property of the Estate.

3. This Motion made pursuant to Bankruptcy Code §327(a), is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A), (M) and (O) because it relates to matters concerning the administration of the Estate, the sale of property of the Estate, and affects the liquidation of the Estate. Venue is proper in this district by virtue of 28 U.S.C. §1409(a), as this proceeding arises and relates to a case under the Bankruptcy Code pending before this District. This Court has jurisdiction pursuant to 28 U.S.C. §§157 and 1334.

BASIS FOR RELIEF REQUESTED

4. By this Motion, the Trustee seeks authority to (a) retain the Firm as an Auctioneer pursuant to Bankruptcy Code §327(a); (b) approve the time, date and manner of a proposed auction sale pursuant to Bankruptcy Code §363(b); or (c) approve the Trustee abandoning property of the Estate pursuant to Bankruptcy Code § 554. I make this Motion on personal knowledge except as otherwise provided.

(a) Retention of Auctioneer Pursuant to Bankruptcy Code §327(a).

5. Upon information and belief, among the assets of this Estate is a 2010 Audi S5 Automobile, V8 4.2 Liter Engine, All-Wheel Drive, with approximately 39,000 miles. The Chapter 7 Trustee is unaware of any liens or exemptions against such property.

6. It is necessary to the administration of this Estate that the Property be sold.

7. The Trustee would like to employ an Auctioneer to sell the Property through an auction sale. Upon information and belief, an auction sale is the most efficient method to liquidate the Property, and it is expected that such a sale will generate more money for the Estate in comparison to the other methods of liquidation (e.g. private sale). An auction sale will most likely expose the availability of the Property to the largest universe of potential purchasers. Additionally, an auction sale will create a competitive atmosphere among potential purchasers, resulting in a higher purchase price.

8. The Trustee has received from the Firm, a Licensed Auctioneer, an offer to liquidate the Property at an auction sale upon the following terms and conditions

(a) The Auctioneer is to receive a flat twelve percent (12%) commission on gross proceeds of sale up to the amount of \$100,000.00, then five point five percent (5.5%) of any gross proceeds in excess of \$100,000.00 up to \$200,000.00, then two point five percent (2.5%) of any gross proceeds in excess of \$200,000.00, all as is based upon the commission schedule set forth under Local Rule 6005-1 which commission shall be remitted to the Trustee to be held pending an Order by United States Bankruptcy Court approving the Firm's compensation. The Auctioneer will also seek reasonable expenses.

9. The Firm has investigated the Property and conservatively estimates the liquidation of the Property will benefit the creditors of the Estate.

10. To the best of my knowledge, the Firm has no connection with any creditors of the Estate herein or any other parties in interest or their respective attorneys.

11. To the best of my knowledge, the Firm represents no interest adverse to the Trustee or the Estate in matters in which it is to be engaged.

13. To the best of my knowledge, the Firm is disinterested as that term is defined in Bankruptcy Code §101(14).

14. To the best of my knowledge, the Firm has entered into no agreement which would be prohibited under 18 U.S.C. §155 or otherwise prohibited by law.

15. To the best of my knowledge, the Firm has no connection with the United States Trustee or any person employed in the office of the United States Trustee.

16. The Trustee is informed and believes, and therefore alleges, that the granting of this application is in the best interest of the Estate and accordingly that the Court should approve such employment as provided in Bankruptcy Code §327(a).

17. The Auctioneer is aware of the provisions of Bankruptcy Code §328 and has agreed, notwithstanding the terms and conditions of employment herein set forth, that the Court may allow compensation different from the

compensation provided herein.

(b) Approval of Time, Date and Manner of Proposed Sale of Property of the Estate Pursuant to Bankruptcy Code §363(b) .

18. I also seek authorization to conduct the sale of the Property at an auction sale presently scheduled to take place at the U. S. Bankruptcy Court, James T. Foley Federal Courthouse, 445 Broadway, Albany, New York 12207 at 9:15 a.m. Eastern Standard Time on Wednesday, February 28, 2018.

19. Under Bankruptcy Code §363, the Court has the authority to permit the Estate to sell the Estate Property at an auction sale.

WHEREFORE, your Applicant requests that this application be granted and for such other and further relief as this Court may deem just and proper.

Date: January 17, 2018

Philip J. Danaher, Chapter 7 Trustee
Bar Code 101450
1001 Glaz Street
East Greenbush, New York 12061
Tel. (518) 463-4383

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:)
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Zone 5, Inc. f/k/a/ Zone V Lithographic,) Chapter 7
Pre-Press, Inc.,) Case No.: 17-11087
)
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Debtor.)

Affidavit of Professional

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER)

I, Gerald T. Leach, Jr., being duly sworn, state as follows:

1. Your Deponent is Proprietor of All Points Property Management, an Auctioneer having a principal place of business at 58 Sterup Drive, Troy, New York 12180.
2. Your Deponent makes this Affidavit in support of the application of Philip J. Danaher, Chapter 7 Trustee, authorizing the retention of All Points Property Management (“the Firm”) as Auctioneer (the “Application”).
3. I am familiar with the Application and the Property described therein. I believe that the Firm is qualified to represent the Estate in connection with an auction sale of same. The Firm has agreed to accept employment on the terms and conditions set forth in the Application.
4. The Firm has handled numerous bankruptcy and commercial sales including estates, foreclosures, etc. I am a graduate of the Douglas School of Auctioneering in Deerfield, MA. I have met all requirements and am currently bonded and licensed in Massachusetts and New York State. I have conducted several auctions for bankruptcy and commercial estates as well as full contents, in Clermont, NY, Johnstown, NY, Grafton, NY, and Lake George, NY. The Firm has also served as Court Appointed Auctioneer in prior Bankruptcy Estates before this Court. Currently, the Firm is holding no other assets or proceeds relating to any other bankruptcy proceeding.
5. The Firm holds a blanket bond issued in the sum of at least \$100,000.00. The bond is on file with the U. S. Bankruptcy Court for the Northern District of New York.
6. The property to be auctioned has a value of at least \$8,500.00.
7. Your Deponent believes that an auction sale of the Property would have the best chance to result in the Estate receiving funds equal to or greater than the value placed on the Property.
8. The Firm does not hold any interest materially adverse to the Debtor, its creditors, its attorneys or accountants, any other parties in interest, nor does the Firm have any connection to the U.S. Trustee or any person employed by the Office of the U.S. Trustee.

9. Based on the foregoing, I believe the Firm is a disinterested person within the meaning of 11 U.S.C. §101 and is eligible to serve as Auctioneer for the Trustee in this case.
10. In consideration for services provided by the Firm, the Firm will seek a commission in accordance with Local Bankruptcy Rule 6005-1, as well as reasonable expenses.
11. The Firm will instruct the successful bidder to make direct payment of the successful bid amount to the Trustee.
12. Your Deponent is informed and believes that the proposed commissions of the Firm are competitive and reasonable in light of the commissions charged by other auctioneers in the Capital District area.
13. Your Deponent is aware of the provisions of 11 U.S.C. §328(a) and has agreed, notwithstanding the terms and conditions of employment set forth herein, that the Court may allow compensation different from the compensation provided herein if such terms and conditions prove to have been improvident in light of developments unanticipated at the time of the fixing of such terms and conditions.
14. Your Deponent has been informed and understands that no sale may be consummated until after notice and hearing.
15. There are no sharing arrangements and/or fee setting agreements pursuant to 11 U.S.C. §504 and 18 U.S.C. §155.
16. Your Deponent is not in possession of any funds of any other Estate in which the Firm has been appointed as Auctioneer.

WHEREFORE, your Deponent respectfully requests that this Court approve the retention of All Points Property Management as Auctioneer and grant such other and further relief as this Court deems just and proper.

I declare under the penalty of perjury that the foregoing is true and correct.

Gerald T. Leach, Jr., Proprietor
All Points Property Management

Sworn to before me this
_____ day of January, 2018.

Notary Public

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

Chapter 7
Case No. **17-11087**

**Zone 5, Inc. f/k/a/ Zone V Lithographic
Pre-Press, Inc.,**

AFFIDAVIT OF SERVICE

Debtor.

STATE OF NEW YORK)
COUNTY OF RENSSELAER) ss.:

David C. Cleveland, being duly sworn, deposes and says:

That he is over the age of 18 years; that Philip J. Danaher, Chapter 7 Trustee, filed a Notice of Application to Appoint Auctioneer and to Schedule Sale electronically with the Clerk of the Bankruptcy Court on January ____, 2018, using the Court's Electronic Case Filing System.

That the Debtor and the parties listed on the attached Case Mailing Matrix were served with a copy of such Notice by depositing paper copies of the above-mentioned Notice enclosed in a postpaid wrapper in the Official Depository maintained and exclusively controlled by the United States Post Office at East Greenbush, New York, 12061, except for those registered users that, as of today's date, and as obtained from the official "Mailing Info for a Case" selection from the cm/ecf menu on this date, have consented to electronic service and notification through the Court's Electronic Case Filing System, who have received an automatic transmission of the "Notice of Electronic Filing", which shall be considered equivalent to service of the document by first class mail, postage prepaid.

David C. Cleveland

Sworn to before me this
____ day of January, 2018.

Notary Public- State of New York.



Law Offices
of
PHILIP J. DANAHER, ESQ.
1001 Glaz Street
East Greenbush, New York 12061

Telephone (518) 463-4383

Fax (518) 463-4386

January 18, 2018

Clerk
United States Bankruptcy Court
James T. Foley Courthouse
445 Broadway, Suite 327
Albany, New York 12207

**RE: Zone 5, Inc. f/k/a Zone V Lithographic Pre-Press, Inc.
Chapter 7 Case No. 17-11087**

Dear Clerk:

In relation to the above-referenced matter, attached hereto please find CM/ECF copies of Notice of Hearing, Affidavit of Service of such Notice, Application to Approve Retention of Auctioneer and to schedule sale together with the Declaration in Support of Application.

Very truly yours,

Philip J. Danaher
Chapter 7 Trustee

PJD/dcc
Enclosures