

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE: ) Chapter 11  
) Case No. 20-18444  
PUTHENVEETIL K. BOBBY, )  
) Honorable LaShonda A. Hunt  
Debtor. )  
)

**ORDER APPROVING BIDDING PROCEDURES AND DEADLINES  
RELATING TO SALE PROCESS FOR 1907-29 S. ARLINGTON HEIGHTS RD.,  
ARLINGTON HEIGHTS, ILLINOIS 60005**

Upon the Debtor's Motion for Entry of (I) an Order (A) Approving Auction and Sale Format and Bidding Procedures, (B) Approving Form Notice to Be Provided to Interested Parties, (C) Scheduling a Court Hearing to Consider Approval of the Sale to the Highest or Otherwise Best Bidder; and (II) an Order Authorizing the Sale of the Property Free and Clear of All Claims, Liens and Encumbrances (the "Motion");<sup>1</sup> and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having reviewed and considered all other pleadings and evidence submitted by the parties in connection with the Motion; and due and proper notice of the Motion having been provided under the circumstances; and it appearing that no other or further notice need be provided; and the Court having considered the oral arguments of counsel and other parties-in-interest at the hearings held

---

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings assigned to them in the Motion.

on January 6 and 13, 2022;

**THE COURT HEREBY FINDS AND CONCLUDES AS FOLLOWS:<sup>2</sup>**

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, and over the persons and property affected hereby.

B. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2).

C. Venue for this case and proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

D. The statutory and legal predicates for the relief requested in the Motion and provided for herein are §§ 105(a) and 363, and Bankruptcy Rules 2002, 6004, 6006, 9007 and 9014.

E. In the Motion, any supplemental briefing in support thereof, and at the Hearing, the Debtor demonstrated that good and sufficient notice of the relief granted by this Order has been given and no further notice is required. A reasonable opportunity to object or be heard regarding the relief granted by this Order has been afforded to those parties entitled to notice pursuant to Bankruptcy Rule 2002 and all other interested parties.

F. The Debtor's proposed Bidding Procedures Notice, the Auction, the Bidding Procedures, and the hearing to approve the sale of the Property (the "Sale Hearing") are appropriate and reasonably calculated to provide all interested parties with timely and proper notice, and no other or further notice is required.

G. The Bidding Procedures proposed in the Motion, and as more fully set forth in this

---

<sup>2</sup> The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

Order, are fair, reasonable, and appropriate and are designed to maximize the recovery from the Sale of the Property.

H. The Break-Up Fee is reasonably calculated to: (1) attract or retain a potentially successful bid; (2) establish a bid standard or minimum for other bidders to follow; and (3) attract additional bidders. Accordingly, in light of the foregoing, the size and nature of the Sale, and the efforts that would be expended by a Stalking Horse Purchaser, the Break-Up Fee is reasonable and appropriate.

I. Entry of (i) this Order at this time and (ii) an order approving the Sale (the “Sale Order”) after the Sale Hearing is in the best interests of the Debtor, his estate and creditors, and all other parties in interest.

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED.
2. All objections to the Motion that have not been withdrawn, waived, or settled and all reservations of rights included therein, are overruled on the merits.
3. The following Bidding Procedures for the sale of the Property are approved and shall be effective and binding on all parties, as set forth below:
  - Access to Diligence Materials: The Debtor’s selling officer has compiled certain materials that includes information about the Property, its current condition, existing leases, and its financial performance. To obtain access to these materials, prospective bidders must execute and deliver an NDA in form and substance acceptable to the Debtor and his selling officer.
  - Bids. Prospective bidders may submit written purchase offers to purchase the Property. All Bids must confirm to the terms and conditions described herein, including the requirements for Qualified Bids as defined below. All Bids must be for cash, and without any contingencies whatsoever (including financing and due diligence contingencies).
  - Bid Deadline. Bids must be delivered to the Debtor’s selling officer (Matthew Bordwin;

[mbordwin@keen-summit.com](mailto:mbordwin@keen-summit.com), and David Levy; [dlevy@keen-summit.com](mailto:dlevy@keen-summit.com)) by electronic mail, with a copy to Debtor's counsel (Thomas Fawkes; [thomas.fawkes@tuckerellis.com](mailto:thomas.fawkes@tuckerellis.com)) on or before **March 24, 2022 at 5:00 p.m. CST** (the "Bid Deadline"). In order to become a Qualified Bid, a Bid must include, at a minimum, the following:

- A signed purchase agreement, which must be based on the form asset purchase agreement to be prepared by the Debtor and made available to interested bidders;
  - The Bid shall have no contingencies whatsoever (including related to due diligence or financing);
  - The Bid shall be an all-cash bid;
  - The Bid shall be accompanied by a good faith deposit equal to ten percent (10%) of the cash purchase price, which shall be transmitted by wire to the Debtor's selling agent;
  - The Bid shall be accompanied by evidence of the Bidder's financial capability to fund the proposed Bid;
  - The Bid shall provide an acknowledgement that it cannot be withdrawn if it is determined to be a Qualified Bid;
  - The Bid shall not provide for any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement (except for a Stalking Horse Bid (defined below)) and, by submitting a Bid, the Bidder waives the right to any substantial contribution claim under section 503 of the Bankruptcy Code related in any way to the submission of the Bid; and
  - Copies of the written Bid materials shall be provided by electronic mail to counsel for Consumers Credit Union ("CCU") (Eugene Kraus; [ekraus@skcounsel.com](mailto:ekraus@skcounsel.com)) and Romspen Mortgage Limited Partnership ("Romspen") (Jason DeJonker; [jason.dejonker@bclplaw.com](mailto:jason.dejonker@bclplaw.com) and Nick Marcus, [nick.marcus@bclplaw.com](mailto:nick.marcus@bclplaw.com)).
- Participation at Auction: The Bidding Procedures provide that only Qualified Bidders may

participate in the Auction. The determination of whether a Bid is a Qualified Bid shall be in the sole discretion of the Debtor. If the Debtor determines that a Bid is not a Qualified Bid, the Debtor may hold discussions with the Bidder in an effort to have any necessary modifications made to the Bid in order for it to become Qualified prior to the Auction. The Debtor, through his selling officer, shall contact all Bidders to inform them of whether or not they are Qualified within two (2) business days of the Auction.

- Credit Bid Rights: CCU shall have the right to Credit Bid for the Property in accordance with and pursuant to section 363(k) of the Bankruptcy Code, except as otherwise limited by the Bankruptcy Court for cause. Nothing herein shall limit the rights of any party in interest to seek relief from the Bankruptcy Court related to the right or alleged right of any creditor to exercise a Credit Bid for any of the Property.
- Designation of Stalking Horse Bid: To increase the competitive nature of the sale process, the Bidding Procedures provide that the Debtor, in his discretion, in consultation with Romspen, CCU, and the Subchapter V Trustee, may designate a Qualified Bidder as a “Stalking Horse Bidder” and award it so-called stalking horse protections, including a break-up fee not to exceed 2.5% of the cash purchase price, plus an expense reimbursement in an amount not to exceed \$10,000.00 (the “Bid Protections”). The Bidding Procedures provide that any Bid Protections, to the extent payable, shall only be paid from proceeds received by the Debtor at the closing of a sale of the Property to a party other than the Stalking Horse Bidder. To the extent that a Stalking Horse Bidder is identified, the Debtor may file a notice with the Bankruptcy Court at any time prior to the Bid Deadline identifying the Stalking Horse Bidder and the terms of the Stalking Horse Bid. The Debtor shall have no obligation to designate any Qualified Bidder as the Stalking Horse Bidder. If no other Qualified Bids are received by the Bid Deadline, the Debtor shall cancel the Auction and shall seek approval of the Stalking Horse Bid.
- If the Debtor receives more than one Qualified Bid, the Debtor will conduct an Auction on

**March 29, 2022 at 10:00 a.m. CST.** The Auction may be conducted in-person or by Zoom or similar videoconferencing method (based on the selling officer's judgment in consultation with the Debtor and key parties), based on instructions to be provided by the Debtor's selling officer to Auction participants in advance of the Auction.

- The Auction shall be governed by the following procedures:
  - (a) only Qualified Bidders may bid at the Auction, and every Qualified Bidder must have at least one (1) such duly-authorized representative with authority to bind the Qualified Bidder at the Auction;
  - (b) only such authorized representatives of each of the Qualified Bidders, the Debtor, the Debtor's selling officer, CCU, Romspen, the Subchapter V Trustee and their respective legal and financial advisors shall be permitted to attend the Auction;
  - (c) if a Stalking Horse Bidder has not been selected prior to the commencement of the Auction, the Debtor, through his selling officer, may have discussions with each Qualified Bidder with respect to the terms and conditions of such Qualified Bids, and the Debtor will have selected a Qualified Bid to become the opening bid at the Auction (the bid submitted by such Qualified Bidder shall be referred to as the "Opening Bid" and the Qualified Bidder shall be referred to as the "Opening Bidder");
  - (d) bidding shall commence at the amount of the Opening Bid. The Opening Bid shall be announced by the Debtor at or before the commencement of the Auction. Other Qualified Bidders may then submit successive bids in increments of at least \$25,000.00 (plus, with respect to the first successive bid, the amount of the Break-Up Fee, if any) higher than the Opening Bid, and all subsequent bids must be at least \$25,000.00 higher than the previous bid. The Debtor, through his selling officer, may adjust the bid increments during the Auction to encourage additional bidding. To the extent a Stalking Horse Bidder submits higher bids, such Stalking Horse Bidder shall have the right (but not the obligation) to increase its Opening Bid by using, as a credit, the amount of the Break-Up Fee when determining whether any Stalking Horse Bidder has topped the previous bid by the required amount;
  - (e) the bidding will be transcribed by a certified court reporter employed by the Debtor to ensure an accurate recording of the bidding at the Auction;

- (f) each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the proposed Sale and is not in violation of section 363(n) of the Bankruptcy Code; and
  - (g) absent irregularities in the conduct of the Auction, the Debtor will not consider any Bids made after the Auction is closed.
- Property Sold on an “As-Is, Where-Is” Basis. The Property will be transferred on an “as-is, where-is” basis, with all faults, and without representations or warranties of any kind, nature or description by the Debtor, his agents or estate, whether written, verbal, express, implied, or by operation of law.
- Acceptance of Winning Bid and Back-Up Bid: Upon the conclusion of the Auction (if such Auction is conducted), the Debtor, in the exercise of his reasonable, good-faith business judgment, shall identify (i) the Winning Bid, which is the highest or otherwise best Qualified Bid submitted at the Auction; and (ii) the next highest or otherwise best Qualified Bid (the “Back-Up Bid” and the party submitting the Back-Up Bid, the “Back-Up Bidder”). Each of the Winning Bidder and the Back-Up Bidder shall be required to execute a definitive Qualified Bid conformed to the provisions of the Winning Bid and the Back-Up Bid, as applicable, as soon as practicable but, in no event, prior to the Sale Hearing. For the purposes of these Bidding Procedures, the definitive agreement executed by the (i) Winning Bidder shall be defined as the “Winning Bid APA” and (ii) Back-Up Bidder shall be defined as the “Back-Up Bid APA”.
  - The Back-Up Bidder must keep the Back-Up Bid open and irrevocable until the earlier of (i) 5:00 p.m. CST on the date which is thirty (30) days after the entry of the Sale Order (the “Outside Back-Up Date”), or (ii) the date of closing of the Sale to the Winning Bidder.
  - If an Auction is held, the Debtor shall be deemed to have accepted a Qualified Bid as the winner of the Auction (conditioned upon approval by the Bankruptcy Court) only when (i) such bid is declared the Winning Bid; and (ii) definitive

documentation has been executed in respect thereof. Such acceptance is also conditioned upon approval by the Court of the Winning Bid and (if applicable) the Back-Up Bid.

- Return of Deposits: Upon closing of the Sale with the Winning Bidder, the Deposit of the Winning Bidder shall be credited to the Purchase Price. As shall be set forth in the Winning Bid APA, if the Winning Bidder fails to close, then the Deposit which is the subject of the Winning Bid shall be retained by the Debtor as liquidated damages, unless otherwise ordered by the Bankruptcy Court.
  - The Deposits of any Qualified Bidders other than the Winning Bidder and the Back-Up Bidder will be returned within two (2) business days after the conclusion of the Sale Hearing; provided, that, the Deposit of the Back-Up Bidder shall be returned to the Back-Up Bidder at the earlier of (i) the closing of the Sale to the Winning Bidder, and (ii) thirty (30) days after entry of the Sale Order.

4. The Break-Up Fee is approved. Any Break-Up Fee, to the extent payable, shall only be paid from the cash proceeds received by the Debtor at the closing of a Sale with a Qualified Bidder other than the Stalking Horse Bidder.

5. The Debtor is authorized to conduct the Auction in accordance with the provisions of the Bidding Procedures.

6. The Bidding Procedures Notice annexed as **Exhibit B** to the Motion is approved as adequate and appropriate under the circumstances and the Debtor is directed and authorized to serve the Bidding Procedures Notice by no later than **January 21, 2022**.

7. A hearing to approve the sale of the Property to the Winning Bidder(s) or any Back-Up Bidder(s) resulting from the Auction shall take place on **March 31, 2022** at 11:00 a.m. before the Honorable LaShonda A. Hunt, United States Bankruptcy Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, Illinois 60604. The hearing may be conducted by Zoom for Government or other video or audio conference platform. Any objections to the Sale (a “Sale




Objection”), must: (i) be in writing; (ii) comply with the Bankruptcy Rules; (iii) set forth the specific basis for the Sale Objection; (iv) be filed with the Court, 219 S. Dearborn St., Chicago, Illinois 60604, together with proof of service, by no later **March 29, 2022** at 5:00 p.m. (prevailing Central Standard Time) (the “Sale Objection Deadline”); and (v) be served, so as to be actually received on or before the Sale Objection Deadline, upon: (i) Tucker Ellis LLP, 233 S. Wacker Dr., Suite 6950, Chicago, Illinois 60606, Attn: Thomas R. Fawkes ([thomas.fawkes@tuckerellis.com](mailto:thomas.fawkes@tuckerellis.com)); (ii) counsel for Consumers Credit Union, Scott & Kraus, LLC, 150 S. Wacker Dr., Suite 2900, Chicago, Illinois 60606, Attn: Eugene Kraus ([ekraus@skcounsel.com](mailto:ekraus@skcounsel.com)); (iii) counsel for Romspen Mortgage Limited Partnership, Bryan Cave Leighton Paisner LLP, 161 N. Clark St., Suite 4300, Chicago, Illinois 60601, Attn: Jason J. DeJonker ([Jason.dejonker@bclplaw.com](mailto:Jason.dejonker@bclplaw.com)) and Nick Marcus ([nick.marcus@bclplaw.com](mailto:nick.marcus@bclplaw.com)); and (v) the Office of the United States Trustee, Attn: David Holtkamp, 219 S. Dearborn St., Chicago, Illinois 60604 ([david.holtkamp@usdoj.gov](mailto:david.holtkamp@usdoj.gov)). If a Sale Objection is not filed and served on or before the Sale Objection Deadline, the objecting party may be barred from objecting to the Sale and may not be heard at the Sale Hearing, and this Court may enter the Sale Order without further notice to such party. Replies to any Sale Objections may be presented at the Sale Hearing.

8. The Sale Hearing may be adjourned from time to time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court on the date scheduled for the Sale Hearing, and the Debtor shall have the exclusive right, in the exercise of his fiduciary obligations and business judgment, to cancel the Sale at any time subject to, and in accordance with, the terms of this Order.

9. To the extent the provisions of this Order are inconsistent with the provisions of any Exhibit referenced herein or with the Motion, the provisions of this Order shall control.

10. The Court retains exclusive jurisdiction over all matters arising from or related to the interpretation and implementation of this Order.

DATED: January 19, 2022



LaShonda A. Hunt  
United States Bankruptcy Judge