

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No.: 15- 80946-CV-MIDDLEBROOKS/Brannon

JAMES D. SALLAH, ESQ., not individually, but
solely in his capacity as Court-Appointed Receiver
for JCS Enterprises Inc., d/b/a JCS Enterprises
Services Inc., T.B.T.I. Inc., My Gee Bo, Inc., JOLA
Enterprise Inc., and PSCS Holdings, LLC,

Plaintiff,

v.

JOSEPH SIGNORE, individually, and
LAURA SIGNORE, individually,

Defendants.

ORDER APPROVING RECEIVER'S SALE OF REAL PROPERTY

THIS CAUSE comes before the Court on the Receiver's Motion for Approval of (1) Private Sale of Real Property Free and Clear of Liens, Claims, Encumbrances; and (2) Form and Manner of Notice of Sale, Bidding, and Auction Procedures ("Motion") (DE 211). The Receiver states in his Certification that Defendant Laura Signore has no objections to the relief requested. (DE 211 at 12). Defendant Joseph Signore filed a Response in opposition to the Motion on October 15, 2018 (DE 227), to which the Receiver replied on October 19, 2018 (DE 228).

Defendant Joseph Signore argues that the Motion should be denied (1) pending an audit of the Receiver's actions, which Defendant Joseph Signore alleges is necessary based on generalized concerns about the Receiver's operations, and (2) on the grounds that Federal Rule of Civil Procedure 70(b) has not been satisfied. Upon consideration of the Motion, the record, and the fact that Defendant Joseph Signore's objection pertaining to the nonsatisfaction of Rule

70(b) is without legal merit in a procedure under 28 U.S.C. §§ 2001-2002, the Receiver's Motion is granted and the sale is approved.

DISCUSSION

The Receiver moves for the Court to approve the sale of property located at 14161 64th Drive North, Palm Beach Gardens, Florida, 34953 (the "House"). The Receiver represents that he has received an offer to purchase the House from a private citizen (the "Buyer") for \$860,000. A sales contract (the "Sales Contract") has been entered into between the Receiver and Buyer. The Receivership now moves for this Court to approve: (1) the Sales Contract; (2) the form and manner of notice of the sale of real property; and (3) the sale of Receivership Estate's real property free and clear of liens, encumbrances and other interests. (DE 211 at 2).

A court can authorize the sale of real estate within the receivership, provided it complies with the requirements set forth in 28 U.S.C. § 2001.

Section 2001(b) provides that:

After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interest of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under the conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

28 U.S.C. § 2001(b).

Review of the Motion confirms that the actions taken to date by the Receiver have complied with § 2001(b). The Receiver's Motion included three appraisals of the House. (DE

211-4; DE 211-5; DE 211-6). Each appraisal was conducted by a certified appraiser. Accordingly, the Court will appoint and take judicial notice of these three appraisals as satisfying § 2001(b).

The average appraisal value is \$824,000. The sale price for the House in the Sales Contract is \$860,000. Thus, as required by § 2001(b), the sale price for the property (\$860,000) exceeds two-thirds of the average appraisal value (\$549,333).

The Receiver has also set forth proposed notice, bidding, and auction procedures. (DE 211 at 8–9). The Court approves the procedures set forth by the Receiver, with one exception. Pursuant to § 2001(b), the Court must hold a hearing, for which notice is given, prior to the confirmation of any private sale. *See* § 2001(b) (“*After a hearing*, of which notice to all interested parties shall be given by publication . . . the court may order the sale of such realty or interest or any part thereof at private sale . . .”) (emphasis added). The Receiver shall include notice of the hearing within its Notice of Sale of Real Property (DE 211-2). Provided the Receiver includes notice of the hearing within its Notice of Sale of Real Property, the Court approves and authorizes the form and manner of publication of the Notice of Sale of Real Property.

The hearing is hereby set for **December 12, 2018 at 1:15 p.m.** at the United States Courthouse, located at 701 Clematis Street, Second Floor, Courtroom 7, West Palm Beach, Florida. Assuming no bona fide offer is made prior to December 12, 2018, the Court may thereafter confirm the private sale of the property to the Buyer. *See* 28 U.S.C. § 2001 (“The private sale shall not be confirmed if a bona fide offer is made . . . which guarantees at least a 10 per centum increase over the price offered in the private sale.”).

In the event that a bona fide offer is made prior to the December 12, 2018 hearing, the Receiver shall move to continue the hearing, if necessary. If a bona fide offer is received, the Receiver is authorized to proceed with the procedure outlined in its Motion regarding the bidding and auction procedures. Once a sales contract has been entered into, the Receiver shall move for a hearing to confirm the sale.

CONCLUSION

Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. The Receiver's Motion (DE 211) for Approval of (1) Private Sale of Real Property Free and Clear of Liens, Claims, Encumbrances; and (2) Form and Manner of Notice of Sale, Bidding, and Auction Procedures is **GRANTED**;
2. The Court appoints and takes judicial notice of the three appraisals of the real property located at 14161 64th Drive North, Palm Beach Gardens, Florida (DE 211-4; DE 211-5; DE 211-6);
3. The Court finds that the offer in the Sales Contract of \$860,000 satisfies the price requirements set forth in 28 U.S.C. § 2001;
4. The form, manner, and Notice of Sale of real and personal property (DE 211-2) is approved, as modified by this Order;
5. A hearing is hereby **SCHEDULED** on **December 12, 2018 at 1:15 p.m.** at the United States Courthouse, located at 701 Clematis Street, Second Floor, Courtroom 7, West Palm Beach, Florida, regarding approval of the sale of the property. The Receiver shall include notice of this hearing within its Notice of Sale;

6. The Court finds the publication of the approved notice of sale of real and personal property in the *Palm Beach Post* newspaper once a week for four weeks will satisfy the notice requirements set forth under 28 U.S.C. § 2001;
7. If an auction is necessary, it shall commence and take place on a date and at a time as determined by the Receiver as soon as possible after the last publication of the approved notice;
8. The Receiver shall include the deadline for qualified bids to be submitted to his counsel in the approved notice.

DONE and ORDERED in Chambers in West Palm Beach, Florida, this 24th day of October, 2018.



Donald M. Middlebrooks
United States District Judge

Copies to: Counsel of Record
Joseph Signore, *pro se*
Laura Signore, *pro se*