

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:

Matt Garton and Associates, LLC,
EIN: 73-1684711

Debtor.

Case No.: 19-18917-TBM
Chapter: 7

**TRUSTEE’S MOTION FOR ORDER AUTHORIZING SALE OF
PERSONAL PROPERTY PURSUANT TO 11 U.S.C. § 363**

Jeffrey A. Weinman (the “Trustee”), the duly appointed chapter 7 trustee of the Estate of Matt Garton and Associates, LLC, pursuant to 11 U.S.C. §363(b), FED. R. BANKR. P. 6004 and 9014, as well as L.B.R. 6004-1, submits this Motion for Order Authorizing the Sale of Personal Property Pursuant to 11 U.S.C. § 363 (the “Motion”), and in support thereof states as follows:

I. BACKGROUND

1. On October 16, 2019 (the “Petition Date”), Matt Garton and Associates, LLC (“Debtor”) filed its Voluntary Petition for relief under Chapter 7 of the U.S. Bankruptcy Code in the United States Bankruptcy Court of the District of Colorado. Dkt. No. 1.

2. Jeffrey Weinman (the “Trustee”) was appointed as the Chapter 7 Trustee of the bankruptcy estate of the Debtor (the “Estate”). Dkt. No. 6.

3. Prior to its filing for relief under Chapter 7 of the Bankruptcy Code, Debtor operated as a third-party hotel and resort booking company. Debtor conducted its business operations under five separate “dba” entities: Hotels for Everyone, All Inclusives for Everyone, Affordable Luxury Hotels, Just Right Hotels, and HotelDeck. Dkt. No. 1, at p. 1.

4. As of the Petition Date, the Debtor owned pieces of personal property as set forth in its schedules, including the following (the “Personal Property”):

Seq.	Item	Category	#	Model	Serial Number
1.	Tabletop booth display	Office Furniture and Supplies	1		N/A
2.	Misc Adjustable Desk Chairs	Office Furniture and Supplies	8		N/A
3.	Dell Inspiron Desktop 3000 Series Model 3847	Equipment	3	3847	N/A
4.	Matt Garton's Laptop	Equipment	1	Dell XPS 15 9550 i7-6700HQ 2.60GHz 8GB Ram 128GB SSD 960M	N/A
5.	HP Laptop (i5 - Jack's)	Equipment	1		N/A
6.	Dell Laptop (Inspiron i7 15 R - repaired - Rachel's)	Equipment	1		N/A
7.	Kris Perry's Laptop	Equipment	1	Dell DD34V Latitude 5590 Notebook with Intel i7-8650U, 16GB 512GB SSD, 15.6	N/A
8.	Planter	Office Furniture and Supplies	1	N/A	N/A
9.	Large Whiteboard	Office Furniture and Supplies	1	N/A	N/A
10.	Office Décor/Vase/ Fake Plants	Office Furniture and Supplies	1	N/A	N/A
11.	Office Plants	Office Furniture and Supplies		N/A	N/A
12.	Black Glass L Desk	Office Furniture and Supplies	2	N/A	N/A
13.	Router	Equipment	1	OrbiAC3000	N/A
14.	Agptek Telephone Headset	Equipment	2	X000RH20S7	N/A
15.	Panasonic Telephone Headset	Equipment	1	KX-TCA60	N/A
16.	Koss Headset	Equipment	1	CS95-USB	N/A
17.	Misc. Headsets and cabling	Equipment		N/A	N/A
18.	Misc. Office supplies/single cup coffee maker	Office Furniture and Supplies		N/A	N/A
19.	Matt's Monitor - Dell	Equipment	1	N/A	N/A
20.	Misc. Monitors	Equipment	3	N/A	N/A
21.	Dell Monitor 22"	Equipment	2	SE2216HV	CN-0WX27Y-72872-65A-A8UI-A00

Seq.	Item	Category	#	Model	Serial Number
22.	Planar Monitor 22"	Equipment	2	PLL2210W	P/N: 997-6897-00
23.	Office Wall Prints	Office Furniture and Supplies	2	N/A	N/A
24.	Panasonic Telephone	Equipment	1	N/A	N/A
25.	Brother Printer	Equipment	1	MFC-L2710DW	U64969C8N673750
26.	Brother Printer	Equipment	1	MFC-LA2700DW	N/A
27.	Round Table	Office Furniture and Supplies	1	N	N/A
28.	Hall accent table	Office Furniture and Supplies	1	N/A	N/A
29.	Oval coffee table	Office Furniture and Supplies	1	N/A	N/A

5. As of the Petition Date, most of the Personal Property was located in a storage unit in Aurora, Colorado and the remaining assets were located at Mr. Garton's personal residence:

Seq.	Item	Location
1.	Table top booth display	Arvada Storage
2.	Misc Adjustable Desk Chairs	6 in Arvada Storage, 2 in Home Office
3.	Dell Inspiron Desktop 3000 Series Model 3847	2 in Arvada Storage, 1 in Home Office
4.	Matt's Laptop	Home Office
5.	HP Laptop (i5 - Jack's)	Arvada Storage
6.	Dell Laptop (Inspiron i7 15 R - repaired - Rachel's)	Arvada Storage
7.	Kris Perry's Laptop	Arvada Storage
8.	Planter	Arvada Storage
9.	Large Whiteboard	Arvada Storage
10.	Office Décor/Vase/ Fake Plants	Arvada Storage
11.	Office Plants	Arvada Storage
12.	Black Glass L Desk	Arvada Storage
13.	Router	Arvada Storage
14.	Agptek Telephone Headset	Arvada Storage
15.	Panasonic Telephone Headset	Arvada Storage
16.	Koss Headset	Arvada Storage
17.	Misc. Headsets and cabling	Arvada Storage

18.	Misc. Office supplies/single cup coffee maker	Arvada Storage
19.	Matt's Monitor - Dell	Home Office
20.	Misc. Monitors	Arvada Storage
21.	Dell Monitor 22"	1 in Home Office
22.	Planar Monitor 22"	Arvada Storage
23.	Office Wall Prints	Arvada Storage
24.	Panasonic Telephone	Arvada Storage
25.	Brother Printer	Arvada Storage
26.	Brother Printer	Home Office
27.	Round Table	Arvada Storage
28.	Hall accent table	Arvada Storage

6. Matt Garton (the "Buyer"), the sole member and manager of Debtor, originally offered to purchase some, but not all of the scheduled Personal Property from the Estate, as is, for a total purchase price of \$1,500.00, the Trustee countered with \$2,000 (the "Purchase Price") for the purchase of all such Personal Property, which offer was ultimately accepted by the Buyer.

7. The Trustee conferred with auctioneers, Dickensheet and Associates, Inc. ("Dickensheet"), who visited the storage unit and inspected the Personal property items located there, and reviewed photographs of the assets at Mr. Garton's residence to ensure the fairness of the proposed transaction, particularly the fair market value of the Personal Property.

8. Upon Court approval of the proposed sale, the Buyer will tender the \$2,000.00 Purchase Price to the Trustee.

II. LEGAL AUTHORITY

9. Under 11 U.S.C. § 704, the Trustee is charged with collecting and reducing the non-exempt personal property of the estate to money. Section 363(b) of the Bankruptcy Code provides that Trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the Estate. Through this Motion, Trustee seeks Court authority to sell the Truck to Buyer pursuant to § 363(b).

1. Per the Debtor's schedules, there are no creditors who have claims secured by Estate property. See Dkt. No. 1, at P. 15. Thus, the Personal Property sought to be sold to Buyer is not, to the best of the Trustee's knowledge, subject to any interest, lien or encumbrance that would bar selling same free and clear. Accordingly, the Trustee requests authority to sell the Personal Property to Buyer free and clear of all interests, liens or encumbrances.

2. Approval of a sale of property under § 363 is warranted where, as is the case here, there exists a "sound business reason." *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). "In evaluating whether a sound business purpose justifies the use, sale or lease of property under Section 363(b), courts consider a variety of factors, which essentially represent a 'business judgment test.'" *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999); *In re Castre, Inc.*, 312 B.R. 426, 428 (Bankr. D. Colo. 2004). "[T]he bankruptcy court has considerable discretion" in evaluating and approving a proposed transfer other than in the ordinary course of business under Section 363(b). *Montgomery Ward*, 242 B.R. at 153; see *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 168 (B.A.P. 9th Cir. 2001) (recognizing that "[r]ulings on motions to sell property of the estate other than in the ordinary course of business pursuant to section 363 are reviewed for abuse of discretion").

3. Here, there is a sound business reason to authorize the Trustee to sell the Personal Property to Buyer for \$2,000.00 as this is the only tangible property of the Estate and by selling it in such a manner, the Trustee will avoid paying commissions or other fees that would be necessary if it were auctioned off. Moreover, upon Dickensheet's inspection and evaluation of the Personal Property resulted in the conclusion that if the Trustee were to auction off the Personal Property, it would cost the Estate far more than these assets would yield as a net profit after fees and commissions. The proposed sale, therefore, would result in the most net income to the Estate. Finally, this case is a liquidation case and the Debtor no longer has ongoing business operations and thus, has no use for the Personal Property.

4. In his sound business judgment, the Trustee believes the sale of the Personal Property to Buyer is in the best interest of the Estate and its creditors.

5. The Trustee is serving notice of the proposed sale to all parties in interest pursuant to Fed. R. Bankr. P. 6007(a) and the Court's Order regarding alternative notice and service procedures notices [Dkt. No. 27].

CONCLUSION

WHEREFORE, Jeffrey A. Weinman, the duly appointed Chapter 7 trustee of the Estate of Matt Garton & Associates, LLC, respectfully requests entry of an Order granting this Motion and authorizing the Trustee to sell the Personal Property, as defined herein, to Matt Garton pursuant to 11 U.S.C. § 363(b) as set forth herein.

DATED this 5th day of June 2020.

RESPECTFULLY SUBMITTED,

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

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