

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In Re:	:	
	:	
CLAUDIO PABLO AVENDANO,	:	CASE NO. 15-64523-PWB
	:	
Debtor.	:	CHAPTER 7
	:	
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	:	
NEIL C. GORDON, Trustee for the	:	
Estate of Claudio Pablo Avendano,	:	
	:	
Movant,	:	CONTESTED MATTER
	:	
V.	:	
	:	
JERRY E. LAWSON,	:	
LAWSON REALTY, LLC,	:	
DOUGLAS COUNTY TAX	:	
COMMISSIONER, and	:	
CLAUDIO PABLO AVENDANO,	:	
	:	
Respondents.	:	
	:	
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NOTICE OF HEARING

NOTICE IS HEREBY GIVEN, pursuant to Fed. R. Bankr.P.2002(a)(2), 6004(a), 6004(c) and 9014, that the Chapter 7 Trustee Neil C. Gordon (“**Trustee**”), Trustee of the bankruptcy estate (the “**Estate**”) of Claudio Pablo Avendano (the “**Debtor**”), proposes to sell certain commercial real property known generally as 155 Liberty Road, Villa Rica, Douglas County, Georgia 30180 (the “**Commercial Property**”). The Commercial Property will be sold "as is" and "where is," free and clear of all liens, interests and encumbrances, as more particularly described in the Trustee’s *Motion for (I) Approval of Bidding and Auction Procedures, (II) Authority to (A) Sell Property of the Estate Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Disburse Certain Proceeds at Closing, and (III) Turnover of Commercial Property Prior to Closing of Proposed Sale* (the “**Sale Motion**”), pursuant to 11 U.S.C. §§ 363(b) and (f). Trustee has been in vigorous negotiations with multiple potential

buyers. After receiving multiple rounds of bidding, Trustee entered into a *Purchase and Sale Agreement* with the highest bidder for a sale of the Commercial Property to Greg Daniel (the “**Purchaser**”), “as is, where is,” for the total *all cash* sale price of \$415,000.00 (the “**Purchase Price**”), subject to Bankruptcy Court approval (the “**Contract**”). The Contract is subject to higher and better offers to be submitted at an auction.

PLEASE TAKE FURTHER NOTICE that the Trustee will hold an auction (the “**Auction**”) pursuant to the following procedures:

In order to bid, the potential bidder must (i) appear at the hearing on the Auction; (ii) provide the Trustee with certified funds equivalent to the Good Faith Deposit; and (iii) the ability to close within ten (10) days of entry of the Order approving the sale. Purchaser, and any other potential bidder who Trustee deems qualified, constitutes a Qualified Bidder. For a bid to qualify, it must be all cash, subject to no due diligence or other contingencies, and must be for a sale “as is,” without inspection rights. The bidding shall commence at \$415,000.00, the bid amount submitted by Purchaser. The initial overbid, if any, must be at least \$427,000.00 (Purchaser’s bid plus the Overbid Protection Amount). The bidding increments will be not less than \$2,000.00, although Trustee reserves the right to reduce or increase the increment in his discretion or if ordered by the Court at the Auction. The holder of any encumbrance on or against the Commercial Property shall not be permitted to credit bid and any effort to do so will not result in a Qualified Bid.

At the end of the Auction, all Good Faith Deposits shall be returned to each Qualified Bidder except the Qualified Bidder that submitted the successful bid (the “**Successful Bidder**”). The Successful Bidder’s Good Faith Deposit (the “**Successful Bid Deposit**”) shall be held until the closing on the sale of the Commercial Property. Failure to close within ten (10) days of entry of the Order approving the sale shall result in a forfeiture to the Trustee of the Successful Bid Deposit, and Trustee will be permitted to accept the next highest bid as the back-up bid, which may then tender an equivalent Good faith Deposit and proceed to close.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in Courtroom 1401, United States Courthouse, 75 Ted Tuner Drive, S.W. Atlanta, Georgia, (formerly known as 75 Spring Street, SW) at 10:00 A.M. on October 20, 2016.

The Motion is available for review in the Clerk's Office, United States Bankruptcy Court, during normal business hours or online at <http://ecf.ganb.uscourts.gov> (registered users) or at <http://pacer.psc.uscourts.gov> (unregistered users).

The proposed sale of the Commercial Property is not in the ordinary course of business as provided by 11 U.S.C. § 363(b). Trustee seeks court approval (a) authorizing the Trustee to sell the Commercial Property to the Purchaser and approving the Contract, if there is no other Qualified Bid, otherwise to the Successful Bidder; (b) decree that the sale of the Commercial Property shall be free and clear of all free and clear of all liens, claims, interests and encumbrances, and that such lien, claim, interest or encumbrance shall attach to the proceeds of such sale; and (c) order directing Debtor to turn over the Commercial Property prior to closing of the sale.

Trustee moves for authority to have all gross sale proceeds paid to him at closing and for authority to have paid at closing (i) all outstanding city and county *ad valorem* real property taxes (none anticipated); (ii) the Estate's pro-ration of 2016 city *ad valorem* real property taxes in the estimated amount of \$5,716.80 (based on 2016 tax bill in the amount of \$5,798.47; (iii) any capital gains taxes (none anticipated); (iv) all other customary closings costs; and (v) all other costs necessary to close the sale of the Commercial Property. Trustee will also disburse \$350,000.00 to Jerry E. Lawson in partial payment of his mortgage note, with the balance of net sale proceeds held in reserve by the Estate and not distributed until further order of this Court.

Your rights may be affected by the Court's ruling on this pleading. You should read this pleading 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 this pleading or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. Prior to the hearing, you may also file a written response to the pleading 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. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner, S.W., Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Dated: September 26, 2016

ARNALL GOLDEN GREGORY LLP

/s/ Neil C. Gordon

Neil C. Gordon,

State Bar No. 302387

171 17th Street, Suite 2100

Atlanta, Georgia 30363

Phone: (404) 873-8500/Fax: (404) 873-8501

neil.gordon@agg.com

Attorneys for Chapter 7 Trustee

Certificate of Service

I, Neil C. Gordon, certify that I am over the age of 18 and that I served a copy of this *Notice of Hearing on Motion for (I) Approval of Bidding and Auction Procedures, (II) Authority to (A) Sell Property of the Estate Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Disburse Certain Proceeds at Closing, and (III) Turnover of Commercial Property Prior to Closing of Proposed Sale* by First Class United States Mail, with adequate postage prepaid, to those entities listed on the debtor's mailing matrix, attached hereto and marked as Exhibit "A", and upon the following persons or entities at the addresses stated:

Office of the United States Trustee
362 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta, Georgia 30303

Claudio Pablo Avendano
P.O. Box 401
Winston, GA 30187

Gregory M. Daniel
Post Office Box 422
Winston, GA 30187

Douglas County Tax Commissioner
8700 Hospital Drive
Douglasville, GA 30134

Jerry E. Lawson
C/o Victor J. Harrison
Harrison & Horan, P.C.
3150 Golf Ridge Boulevard
Suite 101
Douglasville, GA 30135

Lawson Realty, LLC
C/o Victor J. Harrison
Harrison & Horan, P.C.
3150 Golf Ridge Boulevard
Suite 101
Douglasville, GA 30135

This 26th day of September, 2016.

/s/ Neil C. Gordon
Neil C. Gordon

EXHIBIT “A” FOLLOWS

Label Matrix for local noticing
113E-1
Case 15-64523-pwb
Northern District of Georgia
Atlanta
Mon Sep 26 10:54:21 EDT 2016

Office of the United States Trustee
362 Richard Russell Building
75 Ted Turner Drive, SW
Atlanta, GA 30303-3315

Weeks Auction Group, Inc
Mark L Manley, CAI, AARE, MPPA
2186 Sylvester Highway
Maultrie, GA 31768-7100

Arnall Golden Gregory LLP
Attn: Neil C. Gordon
171 17th Street NW
Suite 2100
Atlanta, GA 30363-1031

Douglas County Tax Comm.
Todd Cowan, Tax Commissioner
8700 Hospital Drive
Douglasville, GA 30134-2264

Jerry Austin
911 Marina Drive
Panama City Beach, FL 32407-5523

Jerry Austin
Harrison & Horan PC
3150 Golf Ridge Blvd, Ste 101
Douglasville, GA 30135-1930

Lawson Realty LLC
4857 Yeager Road
Douglasville, GA 30135-4839

Lawson Realty LLC
Harrison & Horan PC
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Douglas County Tax Commissioner
8700 Hospital Drive
Douglasville, GA 30134-2264

Claudio Pablo Avendano
PO Box 401
Winston, GA 30187-0401

Mary Ida Townson
Chapter 13 Trustee
Suite 2200
191 Peachtree Street, NE
Atlanta, GA 30303-1770

Neil C. Gordon
Arnall, Golden & Gregory, LLP
Suite 2100
171 17th Street, NW
Atlanta, GA 30363-1031

Richard K. Valldejuli Jr.
2199 Lenox Road, NE
Suite A
Atlanta, GA 30324-4342

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Lawson Realty, Inc.

(u)Jerry E. Austin

End of Label Matrix	
Mailable recipients	13
Bypassed recipients	2
Total	15