

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: )  
 )  
CLAUDIO PABLO AVENDANO, )  
 )  
Debtor. )  
 )

CASE NO. 15-64523-PWB  
CHAPTER 7

TRUSTEE'S MOTION FOR APPOINTMENT OF REAL ESTATE BROKER AND FOR  
APPROVAL OF PAYMENT OF ADVERTISING COSTS

COMES NOW Neil C. Gordon, Chapter 7 Trustee ("**Trustee**") herein, and moves this Court for an Order authorizing him to retain as real estate broker on behalf of the above estate, Mario Bertolino and the firm of Comercial Bertolino Ltda (hereinafter together referred to as "**Broker**") to represent the estate with respect to efforts to market and sell real estate assets located in La Higuera, Chile, and respectfully shows this Court as follows:

1. Debtor, Claudio Pablo Avendaño, filed a voluntary petition for relief under Chapter 7 of Title 11 U.S.C. on August 3, 2015 (the "**Petition Date**"), thereby initiating Case No. 15-64523-PWB (the "**Case**").
2. Also on the Petition Date, Debtor filed under penalty of perjury his *Statement of Financial Affairs* (collectively, the "**Sworn Statements**") and *Schedules "A" through "F" and Schedules "I" and "J"* (collectively, the "**Sworn Schedules**").
3. On August 4, 2015, Trustee was appointed to the Case as the interim Chapter 7 trustee, pursuant to 11 U.S.C. § 701(a)(1).

4. The original meeting of creditors was scheduled for September 8, 2015, pursuant to 11 U.S.C. § 341(a) (the “**341 Meeting**”), at which time, Debtor failed to appear, so the 341 Meeting was rescheduled to October 15, 2015.

5. Trustee conducted and concluded the 341 Meeting on October 15, 2015, at which time, he became the permanent Chapter 7 Trustee, pursuant to 11 U.S.C. § 702(d).

6. Trustee filed his *Application to Appoint Attorney for Trustee* [Doc. No. 24] requesting authorization to employ Arnall Golden Gregory LLP (“**AGG**”) as attorneys for Trustee that was approved by the Court [Doc. No. 27].

7. Over the objection of the Trustee and creditors, Debtor’s motion to convert to Chapter 13 was granted by Order entered on December 16, 2015 [Doc. No. 43]. However, the Chapter 13 Plan was not confirmed, the Case was re-converted to Chapter 7 on July 13, 2016 [Doc. No. 91], and Trustee was re-appointed on July 18, 2016 [Doc. No. 93].

8. Trustee filed his *Application for Reappointment of Attorney* [Doc. No. 94] on July 18, 2016, and the Court entered an *Order* [Doc. No. 95] on July 20, 2016, reappointing AGG as attorneys for Trustee.

9. Pursuant to *Schedule “A”* of the Sworn Schedules (“**Schedule “A”**”), Debtor scheduled his sole ownership interest in an unencumbered subdivision in La Higuera, Chile, consisting of 161 one-acre lots (the “**Chile Property**”).<sup>1</sup>

10. On October 11, 2016, Debtor filed his motion seeking reconversion of the Case to Chapter 13 [Doc. No. 120] (the “**Motion to Re-Convert**”).

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<sup>1</sup> Without Court authority, during the Chapter 13 phase of the case, Debtor sold off ten (10) of the lots, reducing the existing number of lots to 151.

11. Following a hearing on November 21, 2016, the Court, on November 23, 2016, entered an Order [Doc. No. 138] denying the Motion to Re-Convert.

12. On January 5, 2017, Trustee filed his Trustee's Motion to Appoint Special Counsel (the "**Special Counsel Motion**," Doc. No. 145). In the Special Counsel Motion, Trustee sought authority to retain as special counsel Ricardo Reveco and the law firm of Carey y Cia (hereinafter together referred to as "**Special Counsel**") to represent the estate with respect to efforts to liquidate the Chile Property, including, if necessary, the commencement and handling of an ancillary insolvency proceeding in Chile.

13. On January 10, 2017, the Court entered an Order (Doc. No. 146) granting the Special Counsel Motion.

14. On April 10, 2017, Trustee filed a Motion (Doc. No. 150) seeking an order authorizing Trustee to act as the foreign representative on behalf of the Debtor's estate in ancillary proceedings under the insolvency laws of Chile, and on April 11, 2017, the Court entered an Order (Doc. No. 152) granting that motion.

15. In the ancillary proceeding, the Court of La Serena has registered an injunction regarding the Debtor's real estate to prohibit any sales other than sales authorized by the Trustee.

16. Trustee and Special Counsel need to engage a real estate broker to market and sell the Chile Property. Special Counsel has selected Mario Bertolino and the firm of Comercial Bertolino Ltda (address: Eduardo de la Barra 336, Of. 204, La Serena, Chile) to assist as real estate broker due to Mr. Bertolino's experience and expertise. The affidavit of the Broker is attached hereto as Exhibit "B."

17. The Broker has agreed to charge a 3% broker's fee only to the ultimate buyer of the Chile property. However, Trustee seeks authority to pay up to \$2,000.00 (U.S.) to cover the costs of notices and advertisements in local newspapers.

18. The Broker will be employed to market the Chile Property and to procure a prospective buyer or buyers of the Chile Property.

19. To the best of Trustee's knowledge, the Broker has no connection with the Debtor's creditors, or any other party in interest, or their respective attorneys.

20. The Broker represents no interest adverse to Trustee or the estate in the matters upon which it is to be engaged for the Trustee and its employment would be in the best interests of this estate.

WHEREFORE, Trustee prays that this Motion be granted, enabling him to retain Broker as real estate broker for such purposes as requested herein, authorizing Trustee to pay up to \$2,000.00 (U.S.) for notices or advertising costs, and granting such other relief as is just and proper.

This 25th day of May, 2018.

Respectfully submitted,

/s/ Neil C. Gordon  
Neil C. Gordon, Chapter 7 Trustee  
State Bar No. 302387  
Arnall Golden Gregory LLP  
171 17th Street, N.W., Suite 2100  
Atlanta, Georgia 30363-1031  
(404) 873-8596  
Neil.Gordon@agg.com

EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CASE NO. 15-64523-PWB
	)	
CLAUDIO PABLO AVENDANO,	)	CHAPTER 7
	)	
Debtor.	)	
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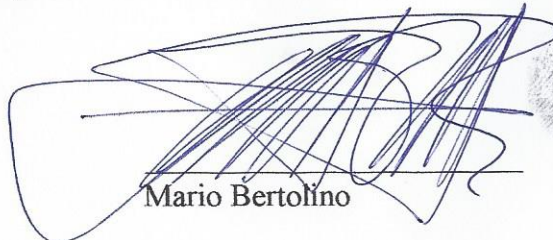
AFFIDAVIT

CHILE  
CITY OF LA SERENA

I am more than 21 years of age, not suffering from any legal disability, and am fully authorized to make this affidavit on behalf of the firm of Comercial Bertolino Ltda (hereinafter "Broker") of which I am managing partner. I have agreed to serve as real estate broker on behalf of Neil C. Gordonas trustee in the above case, and to charge a 3% broker's fee only to the ultimate buyer of the Chile Property.

Comercial Bertolino Ltda represents no interest adverse to the Trustee or the estate in the matters upon which it is to be engaged for the Trustee.

This 23 day of May, 2018.



Mario Bertolino

SWORN TO AND SUBSCRIBED before me this 23 day of May, 2018.

\_\_\_\_\_  
Notary Public

**LEYÓ, FIRMO Y RATIFICO ANTE MÍ** Don(ña) **MARIO VITTORIO LUCA BERTOLINO RENDIC,** C.N.I.N° 6.439.332-4, conforme al art. 407 del COT.-. Documento redactado y presentado por los interesados sin ulterior responsabilidad del notario que autoriza. **LA SERENA, 23 de mayo de 2018.- fcm.-**



**CERTIFICATE OF SERVICE**

This is to certify that I have this day served copy of the Trustee's Motion to Appoint Real Estate Broker by depositing in the United States mail a copy of same in a properly addressed envelope with adequate postage affixed thereon to assure delivery to:

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

Claudio Pablo Avendaño  
Post Office Box 401  
Winston, Georgia 30187

Victor J. Harrison  
Harrison & Horan, P.C.  
3150 Golf Ridge Boulevard  
Suite 101  
Douglasville, Georgia 30135

This 25th day of May, 2018.

ARNALL GOLDEN GREGORY LLP

By: /s/ William D. Matthews

William D. Matthews

Georgia Bar No. 470865

[william.matthews@agg.com](mailto:william.matthews@agg.com)

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