



GREENBERG & BASS LLP

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**10-BK-F**

**VIA U.S. MAIL ONLY**

Peter G. McCabe  
Secretary of the Committee of Rules of Practice  
And Procedures of the Judicial Conference of  
the United States  
Administrative Office of the U.S. Courts  
Thurgood Marshall Fiduciary Bldg., Room 4-170  
1 Columbus Circle Northeast  
Washington, D.C. 20544

Re: Suggested Federal Bankruptcy Rule Change  
Federal Publication of Asset Sales

Dear Mr. McCabe:

This letter is written in support of a federal bankruptcy rule change that would require the publication of notice with regard to the sale of estate assets pursuant to 11 U.S.C. § 363(f).

**Background:**

Local Bankruptcy Rules for the U.S. Bankruptcy Court, Central District of California ("LBR") provide:

**Publication of Notice of Sale of Property**

"Whenever the trustee or debtor in possession is required to give notice of a sale or of a motion to sell property of the estate pursuant to FRBP 6004 and 2002(c), an additional copy of the notice and court approved form F 6004-2, Notice of Sale of Estate Property must be submitted to the clerk at the time of filing for purposes of publication by the clerk on the court's website." LBR 6004-1(f)

Based on recent experience, in the Chapter 11 case of Jackson Corporation, Case Number 2:09-10594 VZ ("Jackson"), the effectiveness of this requirement, in driving the sale price of the Company's operating assets to a dramatically higher level was clearly demonstrated.

**Jackson Corporation**

Jackson is a manufacturer of high quality door hardware for the aluminum and tempered glass door industry. It filed for relief under Chapter 11 of the U.S. Bankruptcy Code on January 12, 2009, and remains a Debtor in Possession, about to propose a liquidating plan of reorganization.

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The Asset Sale:

The initial motion to sell the operating assets of the Debtor was filed on March 15, 2010. A company by the name of RB Capital, LLC offered to purchase the assets for \$510,000. Jackson's Interim Chief Executive Officer had made repeated attempts since the filing to engage a sale of the assets which had not been successful. An asset purchase agreement was executed and the appropriate sale motion was filed pursuant to 11 U.S.C. § 363(f).

Through an oversight, the publication requirement of LBR 6004-1(f) was not met. The sale opportunity was not logged with the Clerk of the Bankruptcy Court, as required by the local rule. At the sale hearing, Chief Judge Vincent Zurzolo denied the relief sought and continued the sale hearing to allow for compliance with the local rule. Notice was then provided as required.

In direct response to that notice, two additional interested parties appeared; Hayden Products, LLC and C.R. Laurence Co. Inc. Each met the eligibility requirements and posted the required deposits. In open court, on May 4, 2010, bidding went from the initial offer of \$510,000 to \$1,250,000. C.R. Laurence was the successful bidder. The asset sale was approved and was consummated.

Conclusion:

This case provides strong empirical evidence that the publication of the terms of an asset sale attracts a wider potential audience seeking such opportunity. In a web based world, a central depository for such information serves the best interest of all parties: the Debtor whose objective is to conclude a sale at the highest possible price; the asset purchaser, actively seeking to buy specific assets; the secured lender who can take a greater measure of comfort in knowing that the collateral has attracted greater value; all classes of creditors who stand to benefit from the higher price; and the Office of the United States Trustee whose quarterly fees are driven by the amount of total disbursements.

In the case at hand, the secured lender, OneWest Bank, was delighted with the results, agreed to full payment of all priority claims, all administrative expenses and allowed for a carve out to unsecured creditors, a result which would not have been achieved based on the original asset sale price.

In summary, this letter is written as an endorsement of the adoption of a federal rule that would incorporate the publication requirement on a national registry, similar to the Central District's local rule. If you need further details with regard to the Jackson case, I would be happy to provide them.

Very truly yours,

GREENBERG & BASS LLP



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DMN:rh

cc: Vincent Zurzolo, Chief Judge, United States Bankruptcy Court,  
Central District of California