

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

RECEIVER GREGORY S. MILLIGAN’S MOTION TO APPROVE PROCEDURES FOR  
THE SALE OF PERSONAL PROPERTY AND FOR ORDER AUTHORIZING  
RETENTION, EMPLOYMENT, AND COMPENSATION OF FLS AUCTION, INC.

Receiver Gregory S. Milligan, of the firm Harney Partners (the “Receiver”), with the consent of the Securities and Exchange Commission (the “SEC”) and the Office of the United States Attorney (the “U.S. Attorney’s Office”), respectfully submits this Motion to Approve Procedures for the Sale of Personal Property and for Order Authorizing Retention, Employment, and Compensation of FLS Auction, Inc. (“FLS Auction”) (the “Motion”). The facts and circumstances supporting this Motion are set forth in the Declaration of Gregory S. Milligan (the “Milligan Declaration”), which is attached hereto as **Exhibit A**, and the Declaration of Frank Sughrue (the “Sughrue Declaration”), which is attached hereto as **Exhibit B**. In further support of this Motion, the Receiver states as follows:

**I. BACKGROUND**

1. The Receiver seeks authority to retain FLS Auction to sell personal property of the Receivership Estate, including at least seventeen firearms that were seized by the Federal Bureau of Investigations (“FBI”) from 1848 Circle Road, Towson, Maryland, 21204, audio-visual equipment owned by Kevin Merrill, and other personal property held by the Receivership Estate

(collectively the “Property”).

2. FLS Auction will solicit persons and entities who may be interested in purchasing the Property. To sell the firearms, FLS Auctions will partner with Blacksheep Interests XIII LLC d/b/a Nocked & Loaded (“Nocked & Loaded”), who maintains a federal firearms license. Nocked & Loaded’s federal firearms license number is 5-74-027-01-2K-08759. *See* Sughrue Declaration at ¶ 4.

3. There has been an increased demand for firearms since the coronavirus pandemic began and demand for firearms is expected to continue until November’s election. *See* Bloomberg, *Gun sales are off the charts*, <https://fortune.com/2020/07/02/record-gun-sales-coronavirus-election-smith-wesson-sturm-ruger/> (last visited July 16, 2020). Given the increased demand for firearm sales, the Receiver believes it is in the best interest of the Receivership Estate to begin the process of retaining FLS Auction and soliciting buyers for the firearms. Milligan Declaration at ¶ 11.

4. The firearms are in the FBI’s possession. By this Motion, the Receiver seeks to have the FBI transfer the firearms directly to Nocked & Loaded, as the Receiver’s agent. FLS Auction maintains adequate insurance and has appropriate security measures to ensure the Property is safely stored until such time as this Court may enter an order authorizing its auction and sale. *See* Sughrue Declaration at ¶ 3.

5. The audio-visual and other equipment is not believed to be appreciating in value such that holding the property in storage for any period of time would result in a greater sales price at a later date as opposed to being sold immediately. Milligan Declaration at ¶ 11.

6. The Receivership Order requires the Receiver to “manage, control, operate, and maintain the Receivership Estate and hold in his possession, custody, and control all Receivership

Assets pending further Order of this Court.” Dkt. No. 62 at ¶ 8(D).

7. The Receivership Order further requires the Receiver to “take such action as necessary and appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets.” Dkt. No. 62 at ¶ 8(G).

8. The Receivership Order provides in relevant part that:

[T]he receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. With the exception of the retention of counsel to represent him in this matter, the Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

Dkt. No. 62 at ¶ 63.

## II. REQUESTED RELIEF

### A. Property Sales Procedures

9. The Receiver seeks Court authorization to adopt the Property sales procedures (the “Property Sales Procedures”) proposed by this Motion and to sell the Property in accordance with such procedures.

10. Implementation of the Property Sales Procedures will enable the Receiver to sell the Property in an orderly, efficient, and equitable manner and to maximize the proceeds received from such sales without the need for unnecessary administrative expenses and fees. The Receiver believes that adoption of the Property Sales Procedures and the sale of the Property pursuant thereto is in the best interests of the Receivership Estate. *See* Milligan Declaration at ¶¶ 12-13.

11. The Receiver’s proposed Property Sales Procedures consist of the following:

- a. Transfer of the firearms from the FBI and any other state, federal, or other local body of government that is required to necessitate a transfer of the firearms from the FBI to Nocked & Loaded, as the agent of the Receiver.

The list of the firearms seized by the FBI is attached to this Motion as **Exhibit A-1**.

- b. Upon receipt and inspection of the Property by FLS Auctions and Nocked & Loaded and after consultation with FLS Auctions and Nocked & Loaded, the Receiver will establish an opening bid price (“Opening Bid”) and the minimum price acceptable (the “Reserve”) for each item of Property.
- c. FLS Auction or Nocked & Loaded will thereafter market the Property by category for sale to the public.
- d. FLS Auction may market the Property on its website, <http://flsauction.com/auctions/>.
- e. Upon establishing an Opening Bid and a Reserve for each item of Property within a category, the Receiver will file with the Court a notice of the proposed auction. A form notice of the proposed auction (the “Notice”) is attached hereto as **Exhibit C**. The Notice will be served on all Known Parties of Interest. As used in this Motion, the term “Known Parties of Interest” shall mean: (i) all counsel and/or pro se parties of record in this case who have registered to receive electronic service; (ii) all parties of record in this case who have not registered to receive electronic service; and (iii) any individuals or entities who have actually informed the Receiver that they hold an interest in the Property at issue. Any Known Parties of Interest appearing in this case who have registered to receive electronic service shall receive a copy of the Notice through the Court’s

CM/ECF filing system. All other Known Parties of Interest shall receive a copy of the Notice through regular U.S. Mail. The Receiver will also post a copy of the Notice on the Receiver's website for this case, *www.merrill-ledford.com*, to provide notice to the public of the auction. The Notice will act as formal legal notice of the proposed sale and will require all Known Parties of Interest and any other individual or entity with objections to the proposed sale, or with claims to or against the property to be sold, to timely respond to the Notice or be deemed to consent to the sale. The Notice will be filed with the Court, served upon parties claiming an interest, and posted on the Receiver's website no less than seven days prior to any public auction.

- f. Due to the number of items of Property to be sold in this case, the Receiver seeks approval from the Court to establish the "negative notice" procedure set forth herein for each auction to avoid the unnecessary administrative fees and expenses that would accompany individual sale motions for each item of Property.
- g. Specifically, the Receiver proposes to give all parties in interest and the public fourteen (14) days' notice to review the Opening Bid for each item of Property that will be included in the Notice, which will include the date, time, and location of the public auction for the items of Property. The Notice will be filed with the Court and mailed to all Known Parties in Interest not registered to receive electronic service, as set forth *supra*, on the same day ("Notice Date").

- h. Each Notice will contain the following language directly below the title of the Notice:

This Notice of Proposed Public Auction (the “Notice”) seeks approval of the auction and sale of certain items of personal property (the “Property”) of the Receivership Estate by public auction that may adversely affect you. If you oppose the auction or sale of the Property identified in this Notice, or if you have a claim to or against the Property, you should immediately contact the undersigned counsel for Receiver Gregory S. Milligan (the “Receiver”). If you and the Receiver cannot agree, you must file a written objection (or a claim of ownership or interest in the Property, identifying the source of your claim) to the proposed auction or sale within 14 days of the date this Notice was filed with the Court. Your objection or claim must state why the proposed auction or sale should not be approved by the Court. If no party files a timely objection or claim, the proposed auction and sale shall be deemed approved by the Court without further Order, thereby authorizing FLS Auction or Nocked & Loaded to conduct the public auction and close on the sale of the Property.

- i. In the event no objection or claim is filed within fourteen days of the Notice Date, the Receiver will thereafter be authorized, without further Order of the Court, to hold a public auction and sale of the Property under the terms identified in the Notice.
- j. In the event an objection or claim is filed within fourteen days of the Notice Date, such objecting party or party asserting a claim shall state why the proposed auction should not be approved by the Court and the basis for such belief. To the extent that the objecting party alleges a claim to or against the Property, the objecting party shall describe such claim.
- k. The Receiver’s response to an objection to the proposed auction of an item of Property or a claim shall be filed within seven (7) days of the filing of the objection.
- l. The Court may thereafter determine whether a hearing is necessary to (i)

approve the public auction or (ii) sustain the objection.

- m. If no objection or claim is filed, or if the Court approves the auction subsequent to an objection or claim, the Receiver's sale of the Property shall be free and clear of all liens, claims, and encumbrances, unless the Court orders that, such liens, claims, or encumbrances shall attach to the proceeds of such sale.
- n. During the public auction, bidding shall begin initially with the Opening Bid, and subsequently continue in minimum increments that shall be specified by FLS Auction and/or Nocked & Loaded prior to the commencement of bidding.<sup>1</sup> The public auction will continue until bidding on the Property subsides and the auction of the item is closed.
- o. Only those who are eligible to purchase firearms under federal, state, and any applicable other law may bid on the firearms. Further, all sales of the firearms must be done in compliance with applicable federal, state, and other local law.
- p. The Receiver would thereafter deposit and retain the proceeds of the sale in the bank account of the Receiver to preserve the value of the Property for the benefit of the Receivership Estate.
- q. If the public auction does not result in any bids above the Reserve, FLS Auction and Nocked & Loaded shall not be authorized to sell the item of Property, and the Receiver shall be required to file a new Notice for any subsequently proposed auction of the item of Property.

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<sup>1</sup> Any successful bidder of a firearm will be charged a \$50.00 processing fee in addition to its bid price to cover fees associated with performing required background checks and licensing fees.

- r. The Receiver shall, when reporting on the Receivership Estate generally, report on the results of any auction of the Property that occurred during the relevant reporting period.

12. The Receiver also requests the Court order as part of the Property Sales Procedures that the Receiver is authorized to transfer title to the seventeen firearms identified in Exhibit A-1 to this Motion to the successful bidder at auction. Some of the firearms were gifts from Gary Day to Kevin Merrill, and title to the firearms was not formally transferred from Gary Day to Kevin Merrill. As such, the Receiver requests authority to transfer title to all firearms seized by the FBI, regardless of whether the firearms are titled in the name of Gary Day or Kevin Merrill. Milligan Declaration at ¶ 9.

13. The Receiver is serving a copy of this motion on Gary Day via first class mail and certified mail return receipt requested to his known address, 1 Troon Drive, Newport Beach, CA 92660, and his last known counsel of record, Allison Shealy, Shulman Rogers, 12505 Park Potomac Avenue, Potomac, MD 20854.

#### **B. Retention of FLS Auctions and to Sell the Property**

14. The Receiver seeks to retain FLS Auction to represent the Receiver for purposes of marketing and selling the firearms, audio-visual equipment, and other various property owned by the Receivership Estate. The Receiver proposes that FLS Auction shall be entitled to a 10% commission of the sales price of any personal property it sells and expenses incurred in connection with the sale. FLS Auction will also collect and retain a 10% buyer's premium that will be paid by the buyer. FLS Auctions has negotiated an agreement with Nocked & Loaded regarding the compensation Nocked & Loaded will receive as a result of the services it will provide in connection with the auction and sale of the firearms. Sughrue Declaration at ¶ 9.



15. FLS Auction is owned by Frank Sughrue, a licensed auctioneer with over 33 years of experience. Mr. Sughrue is experienced in auctioning assets, including firearms, equipment, and other assets both in bankruptcy proceedings and as part of standard auctioneering sales. FLS Auctions will partner with Nocked and Loaded who is federally licensed to sell firearms. Sughrue Declaration at ¶¶ 3-4.

16. The Receiver believes that FLS Auction and Nocked and Loaded are qualified to represent the Receiver based on FLS Auction's years of experience as an auctioneer and Nocked and Loaded's specialized experience with firearm sales. Further, the Receiver considered hiring other brokers to sell the firearms, audiovisual equipment, and other personal property and conducted due diligence in that regard. Specifically, the Receiver inquired with numerous companies in Maryland, where the firearms are located, regarding their interest in selling the firearms. None expressed an interest in assisting with the sale. Additionally, the Receiver determined that none of the brokers previously retained were as suitable to sell the firearms, audiovisual equipment, and other personal property as FLS Auctions. *See* Milligan Declaration at ¶ 8.

17. The Receiver has numerous assets to manage, preserve, and potentially liquidate in order to maximize the value of the Receivership Assets, including the property. Pursuant to the Receivership Order, the Receiver is to take such action as necessary and appropriate for the preservation of all Receivership Assets and, if necessary and upon approval from the Court, to oversee an orderly liquidation to preserve the value of the Receivership Assets. The Receiver requires the knowledge, experience, and ability of FLS Auctions and Nocked and Loaded to effectively market and sell the Property. *See* Milligan Declaration at ¶¶ 11, 13.

18. The professional services that FLS Auction and Nocked and Loaded will render to

the Receiver shall include providing advice and assistance in the marketing and auction of the Property.

19. The Receiver requests approval of the compensation and reimbursement for services rendered by FLS Auction without need of further Court approval at the rates identified in paragraph 13, above. FLS Auction and Nocked & Loaded will determine how the commissions will be shared between them for any sales of the firearms. Milligan Declaration at ¶ 14. In the Receiver's business judgment, the amounts requested by FLS Auction for selling the Property is fair, will result in a net benefit to the Receivership Estate, and will reduce the administrative cost to the Receivership Estate. If the Receiver was required to submit fee applications or requests for approval of FLS Auctions' costs and expenses for each sale of personal property, the burden of preparing those fee applications would fall on the Receiver's professionals and would increase the financial burden on the Receivership Estate. Accordingly, the Receiver requests final approval of FLS's compensation and services as laid out in this Motion without need of further Court approval. *See* Ex. A, Milligan Declaration at ¶ 14.

### III. CONCLUSION

WHEREFORE, the Receiver respectfully requests that this Court enter an order: (i) granting this Motion; (ii) approving the proposed Property Sales Procedures; (iii) authorizing the Receiver to employ FLS Auction, Inc. as broker for the Receiver; (iv) approving payment to FLS Auction without need of further Court approval; and (v) granting such other relief as the Court deems just and proper.

Date: September 16, 2020

Respectfully Submitted,

/s/ Lynn H. Butler

Lynn H. Butler, *pro hac vice*  
HUSCH BLACKWELL LLP  
111 Congress Ave., Suite 1400  
Austin, TX 78701  
Tel: (512) 472-5456  
Fax: (512) 479-1101  
[lynn.butler@huschblackwell.com](mailto:lynn.butler@huschblackwell.com)

Brian P. Waagner, Fed. Bar No. 14954  
HUSCH BLACKWELL LLP  
750 17th Street, NW, Suite 900  
Washington, D.C. 20006  
Tel: (202) 378-2300  
Fax: (202) 378-2318  
[brian.waagner@huschblackwell.com](mailto:brian.waagner@huschblackwell.com)

Buffey E. Klein, *pro hac vice*  
HUSCH BLACKWELL LLP  
1900 N. Pearl Street, Suite 1800  
Dallas, Texas 75201  
Tel: (214) 999-6100  
Fax: (214) 999-6170  
[buffey.klein@huschblackwell.com](mailto:buffey.klein@huschblackwell.com)

*Counsel for Receiver Gregory S. Milligan*

**CERTIFICATE OF SERVICE**

On September 16, 2020, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court for the District of Maryland, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically through the Court's CM/ECF filing system for all parties who have registered to receive electronic service. Additionally, the foregoing document was served on the following parties not registered for Court's CM/ECF filing system as indicated below:

**Defendant Kevin B. Merrill (via U.S. Mail):**

Kevin B. Merrill, #64274-037  
FCI Allenwood Low  
Federal Correctional Institution  
P.O. Box 1000  
White Deer, PA 17887

**Defendant Jay B. Ledford (via U.S. Mail):**

Jay B. Ledford, #55055-048  
FCI Safford  
Federal Correctional Institution  
P.O. Box 9000  
Safford, AZ 85548

**Criminal Counsel for Defendant Kevin B. Merrill (via E-Mail and U.S. Mail):**

Elizabeth Genevieve Oyer  
Office of the Federal Public Defender  
100 S Charles St Ste 900 Tower II  
Baltimore, MD 21201  
liz\_oyer@fd.org

Maggie Grace  
Office of the Federal Public Defender  
100 S Charles St, Tower II, 9th Floor  
Baltimore, MD 21201  
maggie\_grace@fd.org

**Criminal Counsel for Defendant Jay B. Ledford (via E-Mail and U.S. Mail):**

Harry J Trainor, Jr.  
Trainor Billman Bennett and Milko LLP  
116 Cathedral St Ste E  
Annapolis, MD 21401  
htrain@prodigy.net

**Criminal Counsel for Defendant Cameron R. Jezierski (via E-Mail and U.S. Mail):**

Joseph J Aronica  
Duane Morris LLP  
505 9th St NW Ste 1000  
Washington, DC 20004  
jjaronica@duanemorris.com

**Criminal Counsel for Relief Defendant Amanda Merrill (via E-Mail and U.S. Mail):**

Addy R. Schmitt  
Ian Herbert  
Miller & Chevalier Chartered  
900 16th St NW  
Washington, DC 20006  
aschmitt@milchev.com  
iherbert@milchev.com

**Relief Defendant Lalaine Ledford (via U.S. Mail):**

Lalaine Ledford  
10512 Courtney Cove Ave.  
Las Vegas, NV 89144  
lalainebarretto@yahoo.com

**Baltimore County Office of Law (via E-Mail and U.S. Mail):**

Susan B. Dubin  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204  
sdubin@baltimorecountymd.gov

**Dundalk United Methodist Church (U.S. Mail):**

Dundalk United Methodist Church  
c/o Edward F. Mathus  
6903 Mornington Road  
Baltimore, Maryland 21222

**Gary Day (via CM/RRR No. 9314 8699 0430 0075 0181 19 and U.S. Mail)**

1 Troon Drive  
Newport Beach, CA 92660

Gary Day (via CM/RRR No. 9314 8699 0430 0075 0181 95 and U.S. Mail)  
c/o Shulman Rogers  
12505 Park Potomac Avenue  
Potomac, MD 20854

**Lienholders, Tax Assessors, and Other Interested Parties (U.S. Mail):**

Florida Community Bank, N.A.  
2325 Vanderbilt Beach Road  
Naples, Florida 34109

Mortgage Electronic Registration Systems, Inc.  
PO Box 2026  
Flint, Michigan 48501-2026

Collier County, Florida Tax Assessor  
3291 Tamiami Trail East  
Naples, Florida 34112

Maryland Department of Assessments & Taxation  
301 W. Preston Street  
Baltimore, Maryland 21201-2395

Branch Banking and Trust Company,  
A North Carolina Banking Corporation  
PO Box 1290  
Whiteville, North Carolina 28472

Talbot County, Maryland Finance Office  
Talbot County Courthouse  
11 North Washington Street, Suite 9  
Easton, Maryland 21601

HSBC Bank USA, National Association, as trustee of  
J.P. Morgan Alternative Loan Trust 2006-A5  
c/o Howard n. Bierman, Trustee  
c/o Select Portfolio Servicing, Inc.  
3815 Southwest Temple  
Salt Lake City, Utah 84115

Clark County, Nevada Tax Assessor  
500 S. Grand Central Parkway  
Las Vegas, Nevada 89155

First Financial Bank, N.A. Southlake  
3205 E. Hwy. 114  
PO Box 92840  
Southlake, Texas 76092

Hunter Kelsey of Texas, LLC  
4131 Spicewood Springs Road, Bldg. J-1A  
Austin, Texas 78759

Frost Bank, f/k/a The Frost National Bank  
c/o Michael J. Quilling  
Quilling, Selander Lownds, Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

The City of Colleyville, Texas  
c/o Victoria W. Thomas  
Nichols, Jackson, Dilard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

Tarrant County, Texas Tax Assessor  
100 E. Weatherford  
Fort Worth, Texas 76196

J Trust  
c/o Hillary RE. Badrow, Trustee  
2801 Paramount Boulevard  
Amarillo, Texas 79109

Dallas Central Appraisal District  
2949 N. Stemmons Freeway  
Dallas, Texas 75247-6195

Bozeman West  
PO Box 1970  
15632 West Main Street  
Bozeman, Montana 59771-1970

Neil A. Patel  
5308 Burgandy Court  
Colleyville, Texas 76034

TIB – The Independent BankersBank  
350 Phelps Court, Suite 200  
PO Box 560528i  
Dallas, Texas 75356-0528

Wachovia Mortgage, FSB  
PO Box 659548  
San Antonio, Texas 78265-9548

Denton County Tax Assessor  
1505 E. McKinney Street  
Denton, Texas 76209-4525

Potter County, Texas Tax Assessor  
900 South Polk, Suite 106  
Amarillo, Texas 79101

Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306

Albertelli Law  
Attn: Coury M. Jacocks  
2201 W. Royal Lane, Suite 155  
Irving, TX 75063

Samuel I. White, P.C.  
5040 Corporate Woods Drive, Suite 120  
Virginia Beach, VA 23462

*/s/ Lynn H. Butler*

\_\_\_\_\_  
Lynn H. Butler



# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

**DECLARATION OF GREGORY S. MILLIGAN IN SUPPORT OF RECEIVER  
GREGORY S. MILLIGAN’S MOTION TO APPROVE PROCEDURES FOR SALE OF  
PERSONAL PROPERTY AND FOR ORDER AUTHORIZING RETENTION,  
EMPLOYMENT, AND COMPENSATION OF FLS AUCTION, INC.**

Gregory S. Milligan declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury,  
that the following is true and correct:

1. My name is Gregory S. Milligan and I am of sound mind and capable of making this Declaration. I have personal knowledge of the facts stated herein and they are true and correct.
2. I am an Executive Vice President of HMP Advisory Holdings, LLC d/b/a Harney Partners and a Certified Turnaround Professional.
3. On September 13, 2018, the Court entered the Order Appointing Temporary Receiver (Dkt. No. 11) that appointed me as the Receiver for the estates of the Receivership Parties in the civil action styled *Securities and Exchange Commission v. Kevin B. Merrill, et al.*, Case No.: 1:18-cv-02844-RDB pending in the United States District Court for the District of Maryland. On November 27, 2018, the Court entered the First Amended Order Appointing Temporary Receiver (Dkt. No. 62) (collectively, the “Receivership Order”) clarifying and modifying the Receiver’s authority and identifying the Receivership Parties.
4. The Receivership Order requires me to “manage, control, operate, and maintain the Receivership Estate and hold in his possession, custody, and control all Receivership Assets pending further Order of this Court.” Dkt. No. 62 at ¶ 8(D).
5. The Receivership Order further requires me to “take such action as necessary and appropriate for the preservation of Receivership Assets or to prevent the dissipation or concealment of Receivership Assets.” Dkt. No. 62 at ¶ 8(G).

6. The Receivership Order also provides in relevant part that:

[T]he Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities described in this Order. With the exception of the retention of counsel to represent him in this matter, the Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement.

Dkt. No. 62 at ¶ 63.

7. Through the Motion to Approve Procedures for Sale of Personal Property and for Order Authorizing Retention, Employment, and Compensation of FLS Auction, Inc. (“FLS Auction”) (the “Motion”), I am seeking Court approval to employ and retain FLS Auction to market and the firearms seized by the Federal Bureau of Investigations at 1848 Circle Road, Towson, Maryland, 21204, audio-visual equipment owned by Kevin Merrill, and other equipment and personal property owned by the Receivership Estate (collectively, the “Property”).<sup>1</sup>
8. I believe that FLS Auction’s and Nocked & Loaded’s Teams are qualified to represent me based on their years of experience and knowledge of auctioning personal property, including firearms, equipment, and other assets both in bankruptcy proceedings and as part of standard auctioneering sales. Further, I considered hiring other brokers in the auctioneer market, and conducted due diligence in that regard. Specifically, I inquired with numerous companies in Maryland—where the firearms are located—regarding their interest in selling the firearms. None expressed an interest in assisting with the sale. I also determined that none of the brokers previously retained in this action were as suitable to sell the firearms, audiovisual equipment, and other personal property as FLS Auctions. After such inquiry, I believe that FLS Auction’s compensation, which, if approved by the Court, is at or below market rates and its experience and services represent a good value for the Receivership Estate.
9. The firearms identified in the schedule attached to this declaration as Exhibit A-1 were seized by the FBI at property owned by Kevin and Amanda Merrill. In investigating the assets of the Receivership Estate, I discovered that some of the firearms were gifts from Gary Day to Kevin Merrill. I further discovered that Gary Day did not effectively transfer title to the firearms to Kevin Merrill and that some of the firearms are still titled in Gary Day’s name.
10. I have numerous assets to manage, preserve, and potentially liquidate in order to maximize the value of the Receivership Assets, including the Property. Pursuant to the Receivership Order, I am required to take such action as necessary and appropriate for the preservation of all Receivership Assets and, if necessary and upon approval from the Court, to oversee

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<sup>1</sup> The Federal Bureau of Investigation (the “FBI”) is still in possession of the firearms. The firearms that are in the FBI’s possession are attached to this declaration as Exhibit A-1.

an orderly liquidation to preserve the value of the Receivership Assets. I require the knowledge and experience of Heritage in the luxury goods market to effectively market and auction the Property.

11. None of the Property is believed to be appreciating in value such that holding the Property in storage for any period of time would result in a greater sale price at a later date as opposed to being sold immediately. As it relates to the firearms and in conducting due diligence for a broker to sell the firearms, I learned that there is currently a high demand for firearms. Given the increased demand for firearms sales, I believe it is in the best interest of the Receivership Estate to retain FLS Auction and solicit buyers for their sale.
12. Through the Motion, I am also seeking Court authorization to adopt the Property sales procedures (the “Property Sales Procedures”) proposed by the Motion and to auction the Property in accordance with such procedures.
13. Implementation of the Property Sales Procedures will enable me to sell the Property in an orderly, efficient, and equitable manner and to maximize the proceeds received from such sales without the need for unnecessary administrative expenses and fees. I believe that adoption of the Property Sales Procedures and the sale of the Property pursuant thereto is in the best interests of the Receivership Estate.
14. Through the Motion, I am also requesting approval of the compensation and reimbursement for services rendered by FLS Auction without need of further Court approval. Pursuant to the Property Sales Procedures, FLS would be entitled to a 10% commission of the sales price of any property it sells and expenses. FLS Auction will also collect and retain a 10% buyer’s premium paid by the buyer. All costs associated with the auction will be borne by FLS Auction. In my business judgment, the compensation paid to FLS Auction will result in a net benefit to the Receivership Estate and the Property Sales Procedures will reduce the administrative cost to the Receivership Estate. If the Receiver was required to submit fee or requests for approval of FLS Auction’s costs and expenses for each sale of personal property, the burden of preparing those fee applications would fall on the Receiver’s professionals and would increase the financial burden on the Receivership Estate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2020.

  
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GREGORY S. MILLIGAN

# **EXHIBIT A-1**

Item #	Type	Collected On	Barcode	Acquisition Event	Description	Holding Of	Location B:	Location Description
18311	Firearms	9/18/2018 16:50	6113	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 15 - SIG SAUER P226 EQUINOX .40 CAL PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18310	Firearms	9/18/2018 16:50	6112	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 14A - SIG SAUER MULTI TROMED 4 SCOPE, [REDACTED]	D7	4321	LABORATORY BUILDING
18309	Firearms	9/18/2018 16:50	6111	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 14 - SIG SAUER MULTI CAL RIFLE, MODEL: MPX, [REDACTED]	D7	4321	LABORATORY BUILDING
18308	Firearms	9/18/2018 16:50	6110	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 13A - TRUICON ACOG 4X32 SCOPE, [REDACTED]	D7	4321	LABORATORY BUILDING
18307	Firearms	9/18/2018 16:50	6109	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 13 - KNIGHTS MFG CO, STONER SR-15, 5.56 MM RIFLE MOD2, [REDACTED]	D7	4321	LABORATORY BUILDING
18306	Firearms	9/18/2018 16:50	6108	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 12 - SMITH & WESSON 44 MAG REVOLVER, MODEL: 629, [REDACTED]	BA	3757	[REDACTED] 07
18305	Firearms	9/18/2018 16:50	6107	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 11 - HECKLER & KOCH INC 9MM PISTOL, MODEL: VP9, [REDACTED]	D7	4321	LABORATORY BUILDING
18304	Firearms	9/18/2018 16:50	6106	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 10 - GLOCK 42 .380 AUTO PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18303	Firearms	9/18/2018 16:50	6105	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 9 - SIG SAUER 1911 45 CAL PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18302	Firearms	9/18/2018 16:50	6104	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 8 - GLOCK 22 40 CAL PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18301	Firearms	9/18/2018 16:50	6103	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 7 - SIG SAUER P320 40 CAL PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18300	Firearms	9/18/2018 16:50	6102	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 6 - HECKLER & KOCH INC 9MM PISTOL, MODEL: USP9 COMPACT, [REDACTED]	D7	4321	LABORATORY BUILDING
18299	Firearms	9/18/2018 16:50	6101	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 5 - SMITH & WESSON .357 REVOLVER, MODEL: 686, [REDACTED]	D7	4321	LABORATORY BUILDING
18297	Firearms	9/18/2018 16:50	6099	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 4 - HECKLER & KOCH INC MODEL V9SK, 9MM PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18296	Firearms	9/18/2018 16:50	6098	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 3 - SIG SAUER P226 ELITE .357 PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
18295	Firearms	9/18/2018 16:50	6097	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 2 - GLOCK 19 9MM PISTOL GEN 4, [REDACTED]	D7	4321	LABORATORY BUILDING
					(U) ITEM 1 - HECKLER & KOCH INC MODEL HK45 PISTOL .45 AUTO, [REDACTED]	D7	4321	LABORATORY BUILDING

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

**DECLARATION OF FRANK SUGHRUE IN SUPPORT OF RECEIVER  
GREGORY S. MILLIGAN’S MOTION TO APPROVE PROCEDURES FOR SALE OF  
PERSONAL PROPERTY AND FOR ORDER AUTHORIZING  
RETENTION, EMPLOYMENT, AND COMPENSATION OF FLS AUCTION, INC.**

I, Frank Sughrue, declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury as follows:

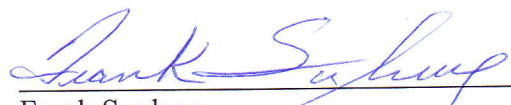
1. I am the owner of FLS Auction, Inc. (“FLS Auction”) and maintain an office in Lockhart, Texas. The facts set forth herein are true and correct and based upon my personal knowledge.
2. I make this declaration in support of the Motion to Approve Procedures for Sale of Personal Property and for Order Authorizing Retention, Employment, and Compensation of FLS Auction, Inc. (the “Motion”), filed by the Receiver Gregory S. Milligan, of the firm HMP Advisory Holdings, LLC, d/b/a Harney Management Partners, LLC (the “Receiver”), for authority to retain FLS Auction, Inc. for purposes of marketing and selling certain firearms, audio-visual equipment, and other personal property (collectively the “Property”).
3. I am a licensed auctioneer with more than 33 years of experience. I have experience in auctioning a variety of property, including firearms, equipment, and other assets both in bankruptcy proceedings and as a part of standard auction sales. FLS Auctions maintains a list of property that it is auctioning on its website at: <http://flsauction.com/auctions/https://furnitureconsignmentgallery.net/>. FLS Auction has security measures to ensure the property in its possession is safely stored.
4. FLS Auctions partners with Blacksheep Interests XIII LLC d/b/a Nocked & Loaded (“Nocked & Loaded”) to auction firearms. Nocked & Loaded’s license number is 5-74-027-01-2K-08759. Further, Nocked & Loaded maintains insurance over the assets in its possession and has security measures to ensure the property in its possession is safely stored.



5. Based on my 33 years of experience in the auctioneer market and during my time partnering with Nocked & Loaded, it is my opinion that FLS Auction and Nocked & Loaded have specialized knowledge and experience to market, auction, and sell the Property.
6. It is agreed and understood that the marketing and auctioning of any piece of Property shall not be authorized until the Court approves the Property Sales Procedures (as defined in the Motion) or otherwise establishes procedures upon which the Receiver and FLS Auction can market and sell the Property. If the Property Sales Procedures are approved in the manner set forth in the Motion, FLS Auction will not market, list the Property on its website, or auction the Property until the notice of proposed sale is filed with the Court as laid out in the Motion and the deadline for known parties of interest to object has passed.
7. I will work with the Receiver to agree to an opening bid and minimum acceptable price for each item or group of Property. I will also work with Nocked & Loaded to the extent the sale is for the firearms. After an opening bid and minimum acceptable price are reached, FLS Auction will market the Property for sale to the public by auction.
8. For the services FLS Auctions provides in connection with the Property, FLS Auction has agreed to receive a 10% commission of the sales price of any personal property it sells and the expenses associated with the sale. FLS Auction will also collect and retain a 10% buyer's premium that will be paid by the buyer.
9. FLS Auction has negotiated an agreement with Nocked & Loaded regarding the compensation Nocked & Loaded will receive as a result of the services Nocked & Loaded will provide in connection with the marketing and auctioning of the firearms.
10. It is my opinion that the amounts FLS Auction is entitled to retain for each sale of Property is customary and standard for auctioneering services and has been agreed upon between FLS Auction and the Receiver.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on September 15, 2020.

  
Frank Sughrue

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KEVIN B. MERRILL, et al., )  
 )  
Defendants. )

Case No.: 1:18-cv-02844-RDB

NOTICE OF PROPOSED PUBLIC AUCTION

**This Notice of Proposed Public Auction (the “Notice”) seeks approval of the auction and sale of certain items of personal property (the “Property”) of the Receivership Estate by public auction that may adversely affect you. If you oppose the auction or sale of the Property identified in this Notice, or if you have a claim to or against the Property, you should immediately contact the undersigned counsel for Receiver Gregory S. Milligan (the “Receiver”). If you and the Receiver cannot agree, you must file a written objection (or a claim of ownership or interest in the Property, identifying the source of your claim) to the proposed auction or sale within 7 days of the date this Notice was filed with the Court. Your objection or claim must state why the proposed auction or sale should not be approved by the Court. If no party files a timely objection or claim, the proposed auction and sale shall be deemed approved by the Court without further Order, thereby authorizing Heritage Auctioneers & Galleries, Inc. to conduct the public auction and close on the sale of the Property.**

Receiver Gregory S. Milligan, of the firm HMP Advisory Holdings, LLC d/b/a Harney Partners (the “Receiver”), files this Notice of his intention to auction the personal property (the “Property”) identified on **Exhibit 1** hereto pursuant to the Property Sales Procedures authorized by the Order Granting Receiver’s Motion to Approve Procedures for Sale of Personal Property and for Order Authorizing Retention, Employment, and Compensation of FLS Auction, Inc. as Broker (the “Order”) (Dkt. No. [ \_\_ ]):

In the event that no objection or claim is filed within fourteen (14) days of the date this Notice, the Receiver has authority, without further Order of the Court, to hold a public auction of the Property in this Notice on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_: \_\_, M CST, at the following location: \_\_\_\_\_.

The Receiver reserves the right to postpone or terminate the proposed sale of the Property for any reason that he deems to be in the best interest of the Receivership Estate.

To contact the Receiver's counsel regarding an objection or for additional information related to this Notice, please contact Buffey E. Klein, c/o Penny Keller, at (512) 370-3458 (phone), (512) 479-1101 (fax), or [merrill.ledford@huschblackwell.com](mailto:merrill.ledford@huschblackwell.com).

Date: \_\_\_\_\_, 2020.

Respectfully Submitted,

/s/ Lynn H. Butler

Lynn H. Butler, *pro hac vice*  
HUSCH BLACKWELL LLP  
111 Congress Ave., Suite 1400  
Austin, TX 78701  
Tel: (512) 472-5456  
Fax: (512) 479-1101  
[lynn.butler@huschblackwell.com](mailto:lynn.butler@huschblackwell.com)

Brian P. Waagner, Fed. Bar No. 14954  
HUSCH BLACKWELL LLP  
750 17th Street, NW, Suite 900  
Washington, D.C. 20006  
Tel: (202) 378-2300  
Fax: (202) 378-2318  
[brian.waagner@huschblackwell.com](mailto:brian.waagner@huschblackwell.com)

Buffey E. Klein, *pro hac vice*  
HUSCH BLACKWELL LLP  
2001 Ross Avenue, Suite 2000  
Dallas, Texas 75201  
Tel: (214) 999-6100  
Fax: (214) 999-6170  
[buffey.klein@huschblackwell.com](mailto:buffey.klein@huschblackwell.com)

*Counsel for Receiver Gregory S. Milligan*

**CERTIFICATE OF SERVICE**

On September \_\_, 2020, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court for the District of Maryland, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically through the Court's CM/ECF filing system for all parties who have registered to receive electronic service. Additionally, the foregoing document was served on the following parties not registered for Court's CM/ECF filing system as indicated below:

**Defendant Kevin B. Merrill (via U.S. Mail):**

Kevin B. Merrill, #64274-037  
FCI Allenwood Low  
Federal Correctional Institution  
P.O. Box 1000  
White Deer, PA 17887

**Defendant Jay B. Ledford (via U.S. Mail):**

Jay B. Ledford, #55055-048  
FCI Safford  
Federal Correctional Institution  
P.O. Box 9000  
Safford, AZ 85548

**Criminal Counsel for Defendant Kevin B. Merrill (via E-Mail and U.S. Mail):**

Elizabeth Genevieve Oyer  
Office of the Federal Public Defender  
100 S Charles St Ste 900 Tower II  
Baltimore, MD 21201  
liz\_oyer@fd.org

Maggie Grace  
Office of the Federal Public Defender  
100 S Charles St, Tower II, 9th Floor  
Baltimore, MD 21201  
maggie\_grace@fd.org

**Criminal Counsel for Defendant Jay B. Ledford (via E-Mail and U.S. Mail):**

Harry J Trainor, Jr  
Trainor Billman Bennett and Milko LLP  
116 Cathedral St Ste E  
Annapolis, MD 21401  
htrain@prodigy.net

**Criminal Counsel for Defendant Cameron R. Jezierski (via E-Mail and U.S. Mail):**

Joseph J Aronica  
Duane Morris LLP  
505 9th St NW Ste 1000  
Washington, DC 20004  
jjaronica@duanemorris.com

**Criminal Counsel for Relief Defendant Amanda Merrill (via E-Mail and U.S. Mail):**

Addy R. Schmitt  
Ian Herbert  
Miller & Chevalier Chartered  
900 16th St NW  
Washington, DC 20006  
aschmitt@milchev.com  
iherbert@milchev.com

**Relief Defendant Lalaine Ledford (via U.S. Mail):**

Lalaine Ledford  
10512 Courtney Cove Ave.  
Las Vegas, NV 89144  
lalainebarretto@yahoo.com

**Baltimore County Office of Law (via E-Mail and U.S. Mail):**

Susan B. Dubin  
Baltimore County Office of Law  
400 Washington Avenue  
Towson, Maryland 21204  
sdubin@baltimorecountymd.gov

**Dundalk United Methodist Church (U.S. Mail):**

Dundalk United Methodist Church  
c/o Edward F. Mathus  
6903 Mornington Road  
Baltimore, Maryland 21222

**Lienholders, Tax Assessors, and Other Interested Parties (U.S. Mail):**

Florida Community Bank, N.A.  
2325 Vanderbilt Beach Road  
Naples, Florida 34109

Mortgage Electronic Registration Systems, Inc.  
PO Box 2026  
Flint, Michigan 48501-2026

Collier County, Florida Tax Assessor  
3291 Tamiami Trail East  
Naples, Florida 34112

Maryland Department of Assessments & Taxation  
301 W. Preston Street  
Baltimore, Maryland 21201-2395

Branch Banking and Trust Company,  
A North Carolina Banking Corporation  
PO Box 1290  
Whiteville, North Carolina 28472

Talbot County, Maryland Finance Office  
Talbot County Courthouse  
11 North Washington Street, Suite 9  
Easton, Maryland 21601

HSBC Bank USA, National Association, as trustee of  
J.P. Morgan Alternative Loan Trust 2006-A5  
c/o Howard n. Bierman, Trustee  
c/o Select Portfolio Servicing, Inc.  
3815 Southwest Temple  
Salt Lake City, Utah 84115

Clark County, Nevada Tax Assessor  
500 S. Grand Central Parkway  
Las Vegas, Nevada 89155

First Financial Bank, N.A. Southlake  
3205 E. Hwy. 114  
PO Box 92840  
Southlake, Texas 76092

Hunter Kelsey of Texas, LLC  
4131 Spicewood Springs Road, Bldg. J-1A  
Austin, Texas 78759

Frost Bank, f/k/a The Frost National Bank  
c/o Michael J. Quilling  
Quilling, Selander Lownds, Winslett & Moser, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, Texas 75201

The City of Colleyville, Texas  
c/o Victoria W. Thomas  
Nichols, Jackson, Dilard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

Tarrant County, Texas Tax Assessor  
100 E. Weatherford  
Fort Worth, Texas 76196

J Trust  
c/o Hillary RE. Badrow, Trustee  
2801 Paramount Boulevard  
Amarillo, Texas 79109

Dallas Central Appraisal District  
2949 N. Stemmons Freeway  
Dallas, Texas 75247-6195

Bozeman West  
PO Box 1970  
15632 West Main Street  
Bozeman, Montana 59771-1970

Neil A. Patel  
5308 Burgandy Court  
Colleyville, Texas 76034

TIB – The Independent BankersBank  
350 Phelps Court, Suite 200  
PO Box 560528i  
Dallas, Texas 75356-0528

Wachovia Mortgage, FSB  
PO Box 659548  
San Antonio, Texas 78265-9548

Denton County Tax Assessor  
1505 E. McKinney Street  
Denton, Texas 76209-4525

Potter County, Texas Tax Assessor  
900 South Polk, Suite 106  
Amarillo, Texas 79101



Wells Fargo Home Mortgage  
P.O. Box 10335  
Des Moines, IA 50306

Albertelli Law  
Attn: Coury M. Jacocks  
2201 W. Royal Lane, Suite 155  
Irving, TX 75063

Samuel I. White, P.C.  
5040 Corporate Woods Drive, Suite 120  
Virginia Beach, VA 23462

Gary Day (via CM/RRR No. \_\_\_\_\_ and U.S. Mail)  
1 Troon Drive  
Newport Beach, CA 92660

Gary Day (via CM/RRR No. \_\_\_\_\_ and U.S. Mail)  
c/o Shulman Rogers  
12505 Park Potomac Avenue  
Potomac, MD 20854

*/s/ Lynn H. Butler*

\_\_\_\_\_  
Lynn H. Butler