

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

**ORDER GRANTING 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.**

This matter is before the Court on the Motion to Approve Procedures for Sale of Personal Property and for Order Authorizing Retention, Employment, and Compensation of FLS Auction, Inc. (the “Motion”) (Dkt. No. 352), filed by Receiver Gregory S. Milligan (the “Receiver”), the Court-appointed Receiver in the above-captioned case. The Court, having considered the Motion and evidence submitted in support thereof, responses or objections, if any, the arguments of counsel, and the pleadings on file, finds that the Motion should be, and hereby is, GRANTED.

It is therefore ORDERED that:

1. The Motion is GRANTED as follows:
2. The Receiver is authorized to employ FLS Auction, Inc. (“FLS Auction”) as property broker for the Receiver to sell the seventeen firearms identified as Exhibit 1 to this Order (the “firearms”), audio-visual equipment owned by Kevin Merrill, and any other personal property owned by the Receivership Estate (collectively the “Property”). FLS Auction shall partner with Blacksheep Interests XIII LLC d/b/a Nocked & Loaded (“Nocked & Loaded”), who maintains a federal firearms license, to sell the firearms.

3. The Property Sales Procedures set forth in the Motion and as identified below are approved as follow:

- a. The Federal Bureau of Investigations (“FBI”) may transfer the firearms identified in Exhibit 1 to this Order from the FBI to Nocked & Loaded as the agent of the Receiver. Nocked & Loaded is federally licensed to sell firearms, and its federal firearms license number is 5-74-027-01-2K-08759.
- 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. 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. 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.

d. Specifically, the Receiver will 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").

e. 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 and/or Nocked & Loaded to conduct the public auction and close on the sale of the Property.

- f. 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.
- g. 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.
- h. The Court may thereafter determine whether a hearing is necessary to (i) approve the public auction or (ii) sustain the objection.
- i. 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.
- j. FLS Auction will thereafter market the Property by category for sale to the public.
- k. FLS Auction may market the Property on its website, <http://flsauction.com/auctions/>.
- l. 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. The public auction will continue until bidding

on the Property subsides and the auction of the item is closed.

- m. All sales of the firearms must be done in accordance with applicable federal, state, and other local law.
- n. 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.
- o. If the public auction does not result in any bids above the Reserve, FLS Auction and/or 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.
- p. 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.
- q. 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.

4. As ordered above, the FBI is authorized and ordered to turn over the firearms identified in Exhibit 1 to this Order, at a mutually agreeable date and time to Nocked & Loaded. 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 is ordered to take any actions necessary and to cooperate in the transfer of the firearms from the FBI to Nocked & Loaded.

5. It is further ordered that the Receiver is authorized to transfer title to the firearms identified in Exhibit 1 to this Order to the successful bidder at any auction conducted pursuant to this Order. This Court further finds that the firearms seized by the FBI that are registered in Gary

Day's name were gifts from Gary Day to Kevin Merrill. Accordingly, the firearms are owned by Kevin Merrill regardless of whether there was a proper transfer of title, and the Receiver has authority to transfer title to the firearms titled in the name of Gary Day.

6. Upon the sale of any item of Property, FLS Auction will be authorized to receive a commission of 10% of the sales price for any Property that is sold plus expenses incurred in connection with the sale. FLS Auction will also collect and retain a 10% buyer's premium paid by the buyer. FLS Auction is directed to comply with the agreement between it and Nocked & Loaded to share in the commission for any proceeds from the sale of the firearms.

IT IS SO ORDERED, this 16th day of September, 2020.

/s/

HON. RICHARD D. BENNETT
UNITED STATES DISTRICT JUDGE

EXHIBIT 1

Item #	Type	Collected On	Barcode	Acquisition Event	Description	Holding Of	Location B:	Location Description
1B311	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
1B310	Firearms	9/18/2018 16:50	6112	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 14A - SIG SAUER MULTI RIMMED 4 SCOPE, [REDACTED]	D7	4321	LABORATORY BUILDING
1B309	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
1B308	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
1B307	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
1B306	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
1B305	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
1B304	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
1B303	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
1B302	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
1B301	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
1B300	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
1B299	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
1B298	Firearms	9/18/2018 16:50	6100	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 4 - HECKLER & KOCH INC MODEL V9SK 9MM PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
1B297	Firearms	9/18/2018 16:50	6099	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 3 - SIG SAUER P226 ELITE .357 PISTOL, [REDACTED]	D7	4321	LABORATORY BUILDING
1B296	Firearms	9/18/2018 16:50	6098	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 2 - GLOCK 19 9MM PISTOL GEN 4, [REDACTED]	D7	4321	LABORATORY BUILDING
1B295	Firearms	9/18/2018 16:50	6097	(U) CONSENT SEARCH - 1848 CIRCLE RD, TOWSON, MD	(U) ITEM 1 - HECKLER & KOCH INC MODEL HK45 PISTOL .45 AUTO, [REDACTED]	D7	4321	LABORATORY BUILDING