

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT  
HARTFORD DIVISION**

In re: : Chapter 7  
: :  
LEHMAN BROTHER, INCORPORATED, : Bankruptcy Case No.04-32327  
: :  
: :  
Debtor. : :

**ORDER PURSUANT TO SECTIONS 105(a), 363 AND 365 OF THE BANKRUPTCY  
CODE AND BANKRUPTCY RULE 6004 FOR (I) APPROVAL OF PROCEDURES IN  
CONNECTION WITH THE SALE OF ALL OF REAL PROPERTY, (II)  
AUTHORIZATION TO ENTER INTO STALKING HORSE AGREEMENTS, (III)  
APPROVAL OF PAYMENT OF STALKING HORSE  
PROTECTIONS AND (IV) THE SETTING OF AUCTION AND HEARING DATES**

Upon the motion (the "Motion") of Richard M. Coan, Trustee (the "Trustee"), for (i) approval of procedures (the "Bidding Procedures") in connection with the sale of 191, 197 and 199 Foster Street, New Haven, Connecticut (the "Assets"), (ii) authorization to enter into Stalking Horse Agreements (as defined below), (iii) approval of payment of Stalking Horse Protections (as defined below), and (iv) the setting of an auction date and a sale approval hearing; and

Due notice of the Motion and this order (the "Order") having been given to all parties-in-interest, including, without limitation, (i) the Office of the United States Trustee, (ii) all creditors and persons or entities (A) that filed a proof of claim, (B) that have filed a notice of appearance in this case or, (C) that have liens of record against the Assets, and (iii) the State of Connecticut environmental authorities (collectively, the "Parties-In-Interest"), as evidenced by the Certificate of Service previously filed with this Court and affirmed on the record in this proceeding, and no

other notice being necessary or required under the circumstances; and

A hearing concerning the Motion having been held before this Court (the "Hearing") to approve a proposed asset purchase agreement ("the Stalking Horse Agreement") with East Rock Properties, LLC (the "Stalking Horse Bidder") and this Order, at which time all Parties-In-Interest were afforded an opportunity to be heard; and the Court having considered the evidence concerning the relief sought;

NOW, THEREFORE, based upon all of the pleadings previously filed by the Trustee and other interested parties, the evidence, if any, presented, proffered, attested to, or adduced at or in connection with, and upon the record of, the Hearing, and the entire record of the bankruptcy case; and after due deliberation thereon; and good cause appearing therefor;

**IT IS HEREBY FOUND AND DETERMINED AS FOLLOWS:**

A. This Court has jurisdiction to hear and determine this matter and to grant the relief requested in the Motion pursuant to 28 U.S.C. §§ 157 and 1334.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

C. This matter is a "core proceeding" within the meaning of 28 U.S.C. § 157(b)(2)(A), (B), (D), (L), (N), and (O).

D. The statutory predicates for the relief sought in the Motion are 11 U.S.C. §§ 105, 363 and Bankruptcy Rules 2002, 6004, and 9014.

E. Timely notice of the Motion, the proposed Order and the Hearing was given by transmitting copies of the notice of Motion by first class mail to all Parties-In-Interest.

F. Notice was adequate and sufficient under the circumstances of this Chapter 7 case and this proceeding and complied with the various applicable requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the local rules of the Court, and the procedural due process requirements of the United States Constitution. A reasonable opportunity to object or be heard with respect to the Motion, the Agreement, the Transaction and this Order was afforded to all Parties-In-Interest.

G. The Bidding Procedures substantially in the form attached hereto as Exhibit 1 are fair, reasonable, and appropriate, and are designed to maximize recovery from any sale (the "Sale") of the Assets.

H. The Trustee has demonstrated a compelling and sound business justification for authorization to (i) enter into the Stalking Horse Agreement to establish a minimum bidding price for the Assets and (ii) pay a fee (the "Termination Fee") in connection therewith in the event that such Stalking Horse Bidder (a) is not the winning bidder at Auction (the "Successful Bidder"), and (b) a transaction is consummated with another Successful Bidder for the assets covered by the Stalking Horse Agreement.

I. The Trustee has further demonstrated a compelling and sound business justification for authorization to enter into an agreement (the "Expense Reimbursement Agreement") with the Stalking Horse Bidder that provides for the reimbursement of reasonable costs and expenses incurred by such bidder in connection with its bid (the "Expense Reimbursement," and together with the Termination Fee, the "Stalking Horse Protections").

J. The Stalking Horse Protections are fair and reasonable and provide a benefit to the

Debtor's estate and its creditors.

K. The estate's payment of either (i) the Termination Fee and/or (ii) the Expense Reimbursement, under the conditions set forth in the Motion and in this order is (a) an actual and necessary cost of preserving the estate, with the meaning of section 503(b) of the United States Bankruptcy Code, (b) of substantial benefit to the estate and creditors and parties in interest, (c) reasonable and appropriate, and (d) necessary to ensure that the Stalking Horse Bidder or purchaser will continue to pursue its proposed agreement to undertake any Sale.

L. Entry of this order is in the best interest of the estate, creditors and parties in interest.

M. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, applicable herein by reason of Bankruptcy Rule 9014.

N. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent that any of the following conclusions of law constitutes a finding of fact, they are adopted as such.

**BASED ON THE FOREGOING, IT IS HEREBY ORDERED, ADJUDGED, AND  
DECREED, EFFECTIVE IMMEDIATELY, AS FOLLOWS:**

1. The Bidding Procedures attached hereto as Exhibit 1 are hereby APPROVED.

2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or specifically addressed in this Order, and all reservations of rights included in such objections, are overruled in all respects on the merits.

3. East Rock Properties, LLC is approved as the Stalking Horse Bidder and the

proposed asset purchase agreement attached to the Motion is approved.

4. Service of the Sale Notice in the manner described herein and in the Motion constitutes good and sufficient notice of the Auction and the Sale Approval Hearing. No other or further notice is required.

5. All Qualified Bids must be received by the Bid Deadline (as defined in the Bidding Procedures) and comply with the applicable provisions of the Bidding Procedures. The Trustee is authorized to return Good Faith Deposits made by bidders without further order of this Court if the (i) the bid accompanying the Good Faith Deposit is not a Qualified Bid, or (ii) the Trustee has closed a sale with another entity and the party entitled to the Good Faith Deposit is not in default under the terms of this order, the Sale Approval Order, or the Bid Procedures.

6. The Auction shall be conducted at the United States Bankruptcy Court, 450 Main Street, Hartford, Connecticut on the date set by the Office of the Clerk in a notice of sale.

7. The Sale Approval Hearing shall be held in the United States Bankruptcy Court, 450 Main Street, Hartford, Connecticut immediately at the conclusion of the Auction or as soon thereafter as the Court's schedule shall permit. At the Sale Approval Hearing, the Trustee shall identify the highest or otherwise best bidder and identify the amount and other terms (if any) of the best bid. The Trustee shall identify the second highest and best bidder, the third highest and best bidder, and so forth, until all bids acceptable to the Trustee have been ranked.

8. All parties in interest may appear and be heard at the Sale Approval Hearing. If necessary and appropriate under circumstances and applicable law, a bidder may appear and be heard at the Sale Approval Hearing. The Sale Approval Hearing may be adjourned without further

notice by announcement at the Sale Approval Hearing.

9. As soon as practicable after the conclusion of the Auction, but not later than before the Sale Approval Hearing, the Trustee shall file the final form of Sale Order as agreed upon between the Trustee and the Successful Bidder.

10. The Trustee is authorized to enter into the Stalking Horse Agreement. In connection therewith, the Trustee is authorized to pay to the Stalking Horse Bidder a Termination Fee, *provided, however,* that such Termination Fee shall only be paid in the event that (i) such Stalking Horse Bidder is not the Successful Bidder at the Auction and (ii) a transaction is consummated with another Successful Bidder for the assets covered by the Stalking Horse Agreement. The Trustee is authorized to pay a Termination Fee of two percent (2%) of the cash purchase price set forth in the Stalking Horse Agreement; *provided, however,* that the Termination Fee shall not be payable if the Stalking Horse Bidder fails to close because of any “due diligence,” or environmental contingencies. The Stalking Horse Agreement shall remain open until the consummation of any other bid that is selected as the Successful Bid for the Assets.

11. The Trustee is authorized to enter into an Expense Reimbursement Agreement to reimburse the Stalking Horse Bidder for up to \$30,000 in costs and expenses to investigate any potential environmental issues at the Property.

12. Notwithstanding Federal Rule of Bankruptcy Procedure 6004, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing.

13. This Court shall retain jurisdiction over any matters related to or arising from the implementation of this Order.