

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION**

**BANK OF THE OZARKS, as
Trustee for the BONDHOLDERS**

PLAINTIFF

vs.

CASE NO.: 60CV-14-4479

**OZARK MOUNTAIN WASTE
DISTRICT**

DEFENDANT

**ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY**

INTERVENOR

**MOTION FOR AUTHORITY TO SELL PERSONAL PROPERTY
FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES**

Come now the receiver, Geoffrey B. Treece (the “Receiver”), by and through his attorneys, Quattlebaum, Grooms & Tull PLLC, and for his Motion for Authority to Sell Personal Property Free and Clear of All Liens, Claims, and Encumbrances, state as follows:

1. On December 2, 2014, the Trustee filed a Complaint for Appointment of Receiver (the “Complaint”) seeking the appointment of a receiver for the Ozark Mountain Solid Waste District (the “District”).
2. A Consent Order Appointing Receiver, whereby the Court appointed the Receiver as receiver of the District, was entered on May 15, 2015.
3. On November 15, 2016, the Receiver filed his Report and Recommendations and Motion for Approval and Implementation of Recommendations (the “Report”).
4. As more particularly stated in the Report, the District owns multiple items of personal property that were formerly used in connection with the District’s now closed landfill and hauling operations. The District also maintained an office building and a maintenance shop located on Rossi Road in Mountain Home. *See* Report, pgs. 6-7.

5. As more particularly stated in the Report, the Receiver retained the services of Cecil Phillips, an experienced auctioneer with prior knowledge of the personal property, to evaluate the subject personal property for either auction or private sale. Mr. Phillips recommended a private sale given the condition, location and nature of the personal property and, in the process, procured an offer for same. *See Report, pgs. 13-14.*

6. On or about August 2, 2016, Travis Dotson, on behalf of 4D LLC (“4D”), an Arkansas limited liability company, submitted a bid in the amount of \$461,000.00 to the Receiver for the District’s personal property. *See Exhibit A, 4D’s Equipment/Office Bid for Former Landfill and Refuse Company.*

7. Subject to the terms and conditions contained herein below, the Receiver requests that this Court grant him the authority to sell all of the District’s right, title and interest in and to all of the personal property owned by the District and located at the landfill and the Rossi Road locations, including without limitation those items more particularly described in Exhibit B attached hereto and incorporated herein. For purposes of clarification, the personal property discussed herein does not include any personal property owned by the District which is presently used in their ongoing operations.

8. The sale of the personal property shall be sold AS IS, WHERE IS with all faults, free and clear of all liens, claims, and encumbrances. Except as provided further herein, any and all liens, claims, and encumbrances shall attach to the sale proceeds and be held in escrow by the Receiver pending further orders of the Court. Upon information and belief, the only party known to claim a lien or security interest in the personal property is held by Bank of the Ozarks, as Trustee for the Bondholders (“Trustee”).

9. Upon approval of this Motion and the Receiver's receipt of the sum of \$461,000.00 from 4D, the Receiver shall sell and convey the subject personal property by Receiver's Bill of Sale.

10. Notwithstanding anything contained herein to the contrary, the Receiver further requests that this Court grant him authority to pay Cecil Phillips a commission equal to ten percent (10%) of the gross sale proceeds upon closing of the sale of the personal property. Mr. Phillips has agreed to forego reimbursement for any costs and expenses incurred in connection with the sale.

11. Time is of the essence with respect to the proposed sale. The personal property is uninsured, not being properly maintained and is depreciating in value. The proposed sale is in the best interest of all the parties. Accordingly, the Receiver requests that this Court enter its order approving this Motion without the necessity of further notice or hearing.

12. The Receiver has consulted with counsel for the District, the Trustee and the Arkansas Department of Environmental Quality concerning the proposed sale and the related terms and conditions. None of the parties oppose the relief requested herein.

WHEREFORE, the Receiver, Geoffrey B. Treece, prays that this Court approve his motion to sell the personal property described herein to 4D LLC on the terms and conditions stated herein and for all other just and proper relief.

Respectfully submitted,

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By: /s/ Geoffrey Treece
Geoffrey B. Treece (84146)
Attorneys for the Receiver

CERTIFICATE OF SERVICE

I, Geoffrey B. Treece, do hereby certify that a true and correct copy of the foregoing was served upon the following parties through U.S. Mail, electronic notification, facsimile, or other to:

Lance R. Miller
Mitchell, Williams, Selig,
Gates & Woodyard, P.L.L.C.
425 W. Capitol Avenue, Suite 1800
Little Rock, AR 72201-3525

John P. Verkamp
Verkamp & Ladd, P.A.
1811 E. Main Street
Charleston, AR 72933

Michael McAlister
Arkansas Department of
Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

on this 30th day of November, 2016.

/s/ Geoffrey B. Treece
Geoffrey B. Treece