

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SECURITIES AND EXCHANGE COMMISSION
Plaintiff,

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v.

Civil Action No. 4:11-cv-655

JAMES G. TEMME, and
STEWARDSHIP FUND, LP,
Defendants.

MOTION FOR AUTHORITY TO: (i) SELL OIL AND GAS INTERESTS; (ii) APPROVE SALES PROCEDURES; AND (iii) RETAIN SALES AND MARKETING FIRM

COMES NOW, Keith M. Aurzada, as receiver in the above-captioned matter (the “Receiver”) for James G. Temme (“Temme”), Stewardship Fund, LP, and all other entities directly or indirectly controlled by Temme or Stewardship Fund, LP, including, but not limited to Stewardship Advisors, LLC, d/b/a Stewardship Advisors, LP, Stewardship Asset Management Genpar I, LLC, Stewardship Group, LLC, Destiny Fund, LP, and Stewardship Management, LP (collectively, the “Receivership Entities”), and submits this Motion for Authority to: (i) Sell Oil and Gas Interests; (ii) Approve Sales Procedures; and (iii) Retain Sales and Marketing Firm. In support of the Motion, the Receiver would respectfully show the Court as follows:

I.

BACKGROUND

1. By this Motion, the Receiver seeks a Court Order authorizing the sale of certain oil and gas interests acquired by the Receivership Estate using Simplex Energy Solutions, LLC (“Simplex”), a professional and reputable oil and gas marketing firm.

2. On October 14, 2011, the Securities and Exchange Commission instituted the above-captioned action, and the Receiver was appointed as receiver for the Receivership Entities

through the Court's entry of the Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme [Dkt. No. 24]; Agreed Order Appointing Receiver Over Stewardship Fund, LP, and Related Entities [Dkt. No. 25]; and Order Appointing Receiver Over James Temme [Dkt. No. 30] (together, the "Receiver Orders"). Pursuant to the Receiver Orders, the Receiver is to "immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate." Agreed Order Appointing Receiver Over Entities Under Control of James G. Temme ¶ 4 [Dkt. No. 24].

3. Through his investigation, the Receiver learned that in 2011, Robert and Elizabeth Boyce and ER, LLC (collectively the "Boyce Parties") advanced \$1.3 million to one or more of the Receivership Entities. In return, the Boyce Parties received \$250,000 in cash, oil and gas leases of undetermined value, and 71 real properties.

4. To settle potential causes of action that the Receiver may have asserted, the Boyce Parties agreed to transfer to the Receiver, among other things, oil and gas leases and the associated overriding royalty interests to approximately 11,500 acres¹ of land in Floyd and Motley County, Texas (the "Oil and Gas Interests"). The Boyce Parties have provided the Receiver with all documents in their possession relevant to the Oil and Gas Interests. The Receivership Estate files contain additional information regarding the Oil and Gas Interests.

5. Over the course of several months, the Receiver has contacted numerous landmen, oil and gas brokers, producers, exploration companies, web based oil and gas brokers, and Simplex in an effort to engage them to market and sell the Oil and Gas Interests. Additionally,

¹ The listed acreage is the approximate net acreage of the Receiver's interest. The gross acreage involved is approximately 17,000 acres.

the Receiver has provided copies of the oil and gas leases and accompanying material to any investor or interest party that has requested them.

6. After several months soliciting brokers to market and sell the Oil and Gas Interest, the Receiver has reached an agreement with Simplex. Simplex is a professional and reputable firm that specializes in oil and gas divestitures. To the best of the Receiver's knowledge, Simplex does not hold or represent an interest adverse to the Receivership Estate and is disinterested for the purpose of assisting the Receiver in this process. A copy of the proposed marketing services agreement with Simplex is attached hereto as Exhibit A (the "Agreement").

7. The Agreement provides that Simplex will market the Oil and Gas Interests for an initial term of approximately ninety (90) days, which may be extended by mutual consent of Simplex and the Receiver. Simplex and the Receiver have agreed to use an "expected value" of \$875,000, which sets a minimum price at which the Receiver is obligated to pay Simplex a sales commission.

8. As compensation for Simplex's services, the Receiver will pay Simplex a non-refundable retainer of \$7,500. Such retained is lower than the standard retainer typically charged by Simplex.

9. If the Oil and Gas Interests are sold, Simplex will be compensated based on a six percent (6%) Lehman scale sales commission (six percent of the first million dollars, five percent on the second incremental million dollars, etc., down to one percent of the sixth incremental million dollars and one percent per incremental million dollars thereafter).

10. Simplex typically obtains an indemnity from its clients regarding information supplied to Simplex. Because the Receiver cannot represent that the Receivership Estate files regarding the Oil and Gas Interests are accurate, the Receiver cannot provide an indemnity to

Simplex, as originally requested. Instead, the Receiver requests that the same liability protections currently afforded to the Receiver also be afforded to Simplex.

11. If the Oil and Gas Interests are sold, the \$7,500 retainer fee will be deducted from the sales commission. The Receiver believes that this compensation structure is reasonable under the circumstances. Moreover, the compensation terms in the Agreement are substantially better than the terms proposed by other brokerage and marketing firms the Receiver has contacted.

12. Assuming Simplex is able to obtain the expected value (or a reasonable price agreed to by Simplex and the Receiver) for the Oil and Gas Interests (in Receiver's business judgment), the Receiver intends to sell all of the Oil and Gas Interests to the highest bidder. The Receiver will not place any restrictions on who may bid on the Oil and Gas Interests, except having sufficient financing to close the transaction within a reasonable time. Thus, investors may bid and purchase assets; however, the investors must bid in cash and will not be allowed to credit bid. Moreover, all sales will be conducted "AS IS – WHERE IS", and no warranties of any kind will be provided, except that whatever interest is owned by the receivership estate shall be transferred to the purchaser.

II.

ARGUMENT

13. By the Motion, the Receiver requests that the Court authorize the sale of certain property of the Receivership Estate known as the Oil and Gas Interests.

14. The Receiver also requests, by this Motion, that the Court waive the provisions of 28 U.S.C. §§ 2001(a) and 2002, which provide for the sale of the assets pursuant to a foreclosure-type or public auction process. Waiver or modification of such provisions is

authorized by 28 U.S.C. § 2004. Further, the Receiver seeks waiver of the provisions of 28 U.S.C. § 2001(b) applying to private sales, including requiring certain appraisals, newspaper publications for the private sale, and confirmation of the private sale.

15. In accordance with the Receiver's business judgment, the waivers of Sections 2001(a) and 2002 are appropriate. The most likely way for the Receiver to realize the highest price for the Oil and Gas Interests is through the commercially reasonable and customary method of listing the properties with a marketing firm that specializes in mineral rights divestitures. Furthermore, the Receiver believes that listing and selling the properties through Simplex for the highest price offered above the expected value, is the best method to obtain the highest and best price for the Oil and Gas Interests without having to incur the additional expenses in complying with Section 2001(b).

16. The Receiver also requests that Simplex be allowed to sell the Oil and Gas Interests to a buyer without further approval of this Court so long as the Receiver files a notice of sale. The notice of sale shall identify at minimum: (i) terms of sale; (ii) price to be paid; and (iii) the name of the buyer. If no objection is filed to the notice of sale within five (5) business days, the sale will be deemed approved and the Receiver shall be entitled to close the transaction. This will allow the Receiver to minimize the cost of disposing of Receivership Estate assets.

III.

RELIEF REQUESTED

WHEREFORE, the Receiver prays that, upon final consideration of this Motion, the Court authorize: (i) the retention of Simplex to market and sell the Oil and Gas Interests on the terms provided in the Agreement and (ii) the sale of the Oil and Gas Interests to the highest

bidder. Furthermore, the Receiver prays that the Court approve the procedure to sell the properties to a buyer without further Court approval so long as the Receiver files a notice of sale.

Dated: February 7, 2013

BRYAN CAVE LLP

By: //s// Jay L. Krystinik

Keith Miles Aurzada

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Counsel for Keith Miles Aurzada, Receiver

CERTIFICATE OF SERVICE

I certify that on February 7, 2013, I served a true and correct copy of the foregoing pleading by United States First Class Mail, postage prepaid, to the following in accordance with the Federal Rules of Civil Procedure:

David Reece
United States Securities and Exchange Commission
Burnett Plaza, Suite 1900
801 Cherry Street
Fort Worth, Texas 76102

John Helms, Jr.
Helms, Roberts & Diaz LLP
6060 N. Central Expressway, Suite 560
Dallas, Texas 75206
COUNSEL FOR JAMES G. TEMME

Moreover, the foregoing will be uploaded to www.stewardshipfundreceivership.com

//s// Bradley J. Purcell
Bradley J. Purcell

CERTIFICATE OF CONFERENCE

I certify that on or before February 7, 2013, I conferred with David Reece of the SEC regarding the Agreement and the relief requested in the foregoing Motion and that the SEC is not opposed to said relief.

/s/ Jay L. Krystinik
Jay L. Krystinik