

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

**SECURITIES AND EXCHANGE COMMISSION**  
**Plaintiff,**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

v.

**Civil Action No. 4:11-cv-655**

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

**MOTION FOR AUTHORITY TO: (i) SELL OR ABANDON OIL AND GAS INTERESTS; (ii) APPROVE SALES PROCEDURES; AND (iii) EXTEND MARKETING AGREEMENT**

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 or Abandon Oil and Gas Interests; (ii) Approve Sales Procedures; and (iii) Extend Marketing Agreement (the “Motion”). 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 and extending a marketing agreement with Simplex Energy Solutions, LLC (“Simplex”), a professional and reputable oil and gas

marketing firm. In the event the oil and gas interests cannot be sold by the Receivership Estate, the Receiver requests authority to abandon them.

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 acres<sup>1</sup> of land in Floyd and Motley County, Texas (the "Oil and Gas Interests"). The Boyce Parties have provided the Receiver will 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.

---

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

5. After acquiring the Oil and Gas Interests, the Receiver contacted numerous landmen, oil and gas brokers, producers, exploration companies, and web based oil and gas brokers in an effort to engage them to market and sell the Oil and Gas Interests.<sup>2</sup> After several months soliciting brokers to market and sell the Oil and Gas Interest, the Receiver reached an agreement with Simplex to sell the Oil and Gas Interests. Simplex is a professional and reputable firm that specializes in oil and gas divestitures.

6. Thereafter, the Receiver sought, and received, Court approval to retain Simplex to sell the Oil and Gas interests. *See* Motion for Authority to: (i) Sell Oil and Gas Interests; (ii) Approve Sales Procedures; and (iii) Retain Sales and Marketing Firm [Dkt. No. 174]; Order Granting Receiver's Motion for Authority to: (i) Sell Oil and Gas Interests; (ii) Approve Sales Procedures; and (iii) Retain Sales and Marketing Firm [Dkt. No. 182].

7. The Agreement provided that Simplex would market the Oil and Gas Interests for an initial term of ninety (90) days, which was extended for an additional five months by agreement between Simplex and the Receiver.

8. As compensation for Simplex's services, the Agreement provided for a non-refundable retainer of \$7,500 and a sales commission 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).

9. Simplex marketed the Oil and Gas Interests to 147 companies that operate or have an interest in or near the location of the Oil and Gas Interests. *See* Marketing Report from Simplex Energy Solutions attached hereto as Exhibit A. Simplex received twenty-two (22)

---

<sup>2</sup> Additionally, the Receiver has provided copies of the oil and gas leases and accompanying material to any investor or interest party that has requested them.

requests for further information. *See id.* However, after performing due diligence, none of the companies that expressed an initial interest in the Oil and Gas Interests made an offer to purchase.

10. Simplex believes that the lack of interest in the Oil and Gas Interests is due, in large part, to the fact that it is mostly a natural gas play, and natural gas prices are very low at this time. *See id.* In fact, Simplex has advised the Receiver that many companies with existing gas leases in the area are not renewing them and, therefore, are especially unlikely to acquire additional leasehold interests.

11. Because Simplex has been unable to sell the Oil and Gas Interests through its traditional marketing efforts, and because the Oil and Gas Leases are decreasing in value over time, the Receiver proposes to auction the Oil and Gas Interests using a thirty-day (30) open bid period.

12. Moreover, the Receiver seeks to extend its agreement with Simplex so that Simplex may facilitate the bidding process and provide due diligence materials to any party interested in bidding on the Oil and Gas Interests. As a result, the Receiver requests that the Court approve the sales procedures below and authorize the Receiver to enter into the Marketing Services Agreement Extension attached hereto as Exhibit B (the "Marketing Extension").

## **II.**

### **ARGUMENT**

13. By this Motion, the Receiver requests that the Court authorize the sale of the Oil and Gas Interests pursuant to 28 U.S.C. §§ 2001(a), 2002, and 2004 using the sales procedures described herein.

14. The Receiver believes that selling the Oil and Gas Interests as soon as practicable is in the Estate's best interest. As a result, the Receiver seeks Court approval of a sale of the Oil and Gas Interests, subject to an open bidding period and public auction.

15. To ensure that the Estate receives the highest possible price for the Oil and Gas Interests, the Receiver requests that the Court approve a thirty (30) day open bid period (the "Bid Period") that commences the day after Court approval of this Motion. During the Bid Period, the Receiver will accept bids from any party that has an interest in acquiring the Oil and Gas Interests. 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. Thus, investors may bid and purchase assets; however, the investors must bid in cash and will not be allowed to credit bid.

16. The Receiver will provide notice of the Bid Period and auction by: (1) serving a copy of this Motion and any order granting this Motion on all investors that have filed a proof of claim with the Receiver; (2) publishing a notice of Bid Period and auction in the Dallas Morning News, Houston Chronicle, and Amarillo Globe-News once a week for four (4) consecutive weeks. On the last day of the Bid Period, the Receiver will hold a public auction on the steps of the courthouse located at Federal Building, 101 East Pecan Street, Room 216, Sherman, Texas 75090 from 9:00 am until 10:00 am CST. The Receiver will open the auction with the highest bid received during Bid Period (the "Opening Bid"), if any, and will accept any bids at the auction that exceed the Opening Bid.

17. The sale of the Oil and Gas Interests will be conducted "AS IS – WHERE IS", and no warranties of any kind will be provided.

18. The Receiver also requests that he be allowed to sell the Oil and Gas Interests to the highest bidder at the auction 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) the 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 three (3) 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.

19. In the event the Estate does not receive a bid on the Oil and Gas Interests during the Bid Period or during the auction, the Receiver requests Court approval to abandon the Oil and Gas Interests, at the Receiver's sole discretion

### **III.**

#### **RELIEF REQUESTED**

WHEREFORE, the Receiver prays that, upon final consideration of this Motion, the Court authorize: (i) the Receiver to enter into the Marketing Extension; (ii) the sale of the Oil and Gas Interests to the highest bidder; and (iii) in the event the Receiver does not receive a bid on the Oil and Gas Interests, the abandonment of the Oil and Gas Interests. 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: October 18, 2013

**BRYAN CAVE LLP**

By: //s// Bradley J. Purcell

Keith Miles Aurzada

State Bar No. 24009880

Jay L. Krystinik

State Bar No. 24041279

Bradley J. Purcell

State Bar No. 24063965

2200 Ross Avenue, Suite. 3300

Dallas, Texas 75201

(214) 721-8000

(214) 721-8100 Fax

[keith.aurzada@bryancave.com](mailto:keith.aurzada@bryancave.com)

[jay.krystinik@bryancave.com](mailto:jay.krystinik@bryancave.com)

*Counsel for Keith Miles Aurzada, Receiver*

**CERTIFICATE OF SERVICE**

I certify that on October 18, 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.  
Fitzpatrick Hagood Smith & Uhl LLP  
Chateau Plaza, Suite 1400  
2515 McKinney Avenue  
Dallas TX 75201  
COUNSEL FOR JAMES G. TEMME

Moreover, the foregoing will be uploaded to [www.stewardshipfundreceivership.com](http://www.stewardshipfundreceivership.com)

*//s// Bradley J. Purcell* \_\_\_\_\_

Bradley J. Purcell

**CERTIFICATE OF CONFERENCE**

I certify that on or before October 18, 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// Bradley J. Purcell* \_\_\_\_\_

Bradley J. Purcell