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CLERK OF THE FINNEY COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000143



Court: Finney County District Court

Case Number: 2019-CV-000143

Case Title: Central Plains Finance, LLC vs. Southwind Broadcasting, LLC, et al.

Type: Order Granting Receiver's Motion to Preliminarily Confirm Receiver's Sale

SO ORDERED.

A handwritten signature in cursive script, reading "Robert J. Frederick".

/s/ Honorable Robert J. Frederick, District Court
Judge

IN THE DISTRICT COURT FOR THE
TWENTY-FIFTH JUDICIAL DISTRICT OF KANSAS
FINNEY COUNTY, CIVIL DEPARTMENT

CENTRAL PLAINS FINANCE, LLC,

Plaintiff,

v.

SOUTHWIND BROADCASTING, LLC;
FIRST CORPORATE SOLUTIONS;
THE BUSINESS BACKER, LLC;
CT CORPORATION SYSTEM, as Representative;
CREDIBLY OF ARIZONA, LLC; and
CORPORATION SERVICE COMPANY,
as Representative,

Defendants.

Case No. 2019-CV-000143

Title to Real Estate Involved

Pursuant to K.S.A. Chapter 60

ORDER GRANTING RECEIVER'S MOTION
TO PRELIMINARILY CONFIRM RECEIVER'S SALE

This matter comes before the Court on January 20, 2021, on the Receiver's Motion to Preliminarily Confirm Receiver's Sale (the "Motion"). The Receiver, Ronald Metzinger, appears by his counsel of record, W. Thomas Gilman of Hinkle Law Firm LLC. The plaintiff, Central Plains Finance, LLC, appears by its counsel of record, Shannon D. Wead of Foulston Siefkin LLP. Christopher Miller, appears by counsel, Travis J. Ternes of Watkins Calcara, Chtd.

WHEREUPON, the Court finds:

1. The Receiver's judicial sale was conducted in the above matter on January 5, 2021, pursuant to the Journal Entry of Judgment filed herein on October 20, 2020, the Order of Sale filed herein on November 6, 2020, and the Order of Instructions for the

Receiver to Conduct Foreclosure Sale filed herein on November 19, 2020. The Receiver sold the following described real and personal property owned by the defendant, Southwind Broadcasting LLC ("Southwind"). The Personal Property, Fixtures and Real Property described below, together, are referred to herein as the "Property."

Personal Property and Fixtures:

All of Southwind's inventory, chattel paper, accounts, equipment, general intangibles, and fixtures, including all accessions, attachments, accessories, replacements, additions, products, produce and proceeds of said property.

Real Property:

The following described real property, located in Finney County, Kansas, to-wit:

The West half of the South 130 feet of the East 145.05 feet, and the South 130 feet of the West 72.57 feet of the East 217.62 feet of Lot 16, of A.H. Smith's Addition to the City of Garden City, Finney County, Kansas, according to the Survey of said Lot 16 filed of record in the Office of the Register of Deeds of Finney County, Kansas, at Survey Book 1 Page 69.

A tract of land located in the East half of Lot 16, of A.H. Smith's Addition to the City of Garden City, Finney County, Kansas, described as follows: Commencing at a point where the North line of Pat's Drive street intersects with the West line of Anderson Street, as shown by the recorded plat of A.H. Smith's Addition; thence run North on the West line of Anderson Street 131 feet to the place of beginning; thence run West on a line at a right angle and parallel with the North line of Pat's Drive 72.52 feet; thence South on a line at a right angle and parallel with the West line of Anderson Street 1 foot; thence West on a line at a right angle and parallel with the North line of Pat's Drive street 145.1 feet; thence North on a line at a right angle and parallel with the West line of Anderson Street to a point on the South line

of Kansas Avenue (also known as U.S. Highway 156); thence East along the South line of said Kansas Avenue (U.S. Highway 156) a distance of 217.62 feet more or less to a point on the West line of Anderson Street; thence South on the West line of Anderson Street to the place of beginning.

A tract of land in the West half of the Northwest Quarter of Section 1, Township 24 South, Range 33 West of the 6th P.M., Finney County, Kansas, said tract of land being a circle with a 300 foot radius having its center 728.1 feet East and 1132.1 feet South of the Northwest corner of said Section 1, and a tract of land in the West half of said Northwest Quarter of Section 1, Township 24 South, Range 33 West of the 6th P.M., said tract of land being a circle with a 235 foot radius and having its center 1018.6 feet East and 1449.3 feet South of the Northwest corner of said Section 1, except that part of the circle which overlaps the above described circle.

Starting at the Northwest corner of Section 1, Township 24 South, Range 33 West of the 6th P.M., Finney County, Kansas; thence East along the North line of said Section on an azimuth of $91^{\circ}34'41''$ a distance of 1335.77 feet to the Northeast corner of the West half of the Northwest Quarter of said Section 1; thence South on the East line of said West half of the Northwest Quarter on an azimuth of $181^{\circ}18'59''$ a distance of 902.7 feet to the actual point of beginning; thence continuing on the same azimuth of $181^{\circ}18'59''$ a distance of 633.0 feet; thence West on an azimuth of $271^{\circ}34'45''$ a distance of 95.87 feet to a point on a circle with a radius of 235 feet and a radius point 1018.6 feet East and 1449.3 feet South of the Northwest corner of said Section 1; thence North and Westerly along the arc of the circle through a delta angle of $112^{\circ}33'44''$ a distance of 461.68 feet, the chord of said arc having an azimuth of $326^{\circ}52'43''$ to a point on a second circle having a radius of 300 feet and a radius point being 728.1 feet East and 1132.1 feet South of the Northwest corner of Section 1; thence North and Westerly along the arc of a circle through a delta angle of $65^{\circ}46'49''$ a distance of 344.43 feet, the chord of said arc having an azimuth of $344^{\circ}35'48''$; thence East on an azimuth of $91^{\circ}34'45''$ a distance of 410.69 feet to the point of beginning.

A tract of land in the Southeast corner of the Southeast Quarter of Section 4, Township 29 South, Range 37 West of the 6th P.M., Grant County, Kansas, described as follows: Beginning at a point 73.9 feet West and 30 feet

North of the Southeast corner of said Quarter Section, said point being on the West right of way line of State Highway 25 as presently laid out and existing; thence West on a line parallel to the South line of said Quarter Section 500 feet; thence North on a line parallel to the East line of said Quarter Section 500 feet; thence East on a line parallel to the South line of said Quarter Section 500 feet more or less to the West right of way line of State Highway No. 25; thence South along said right of way line 500 feet more or less to the point of beginning, aka Block 1, Tower Addition, in Ulysses, Grant County, Kansas.

A tract of land located in the Northeast Quarter of Section 1, Township 18 South, Range 33 West of the 6th P.M., Scott County, Kansas, described as follows: Beginning at the Northeast corner of Section 1, Township 18 South, Range 33 West; thence West 485 feet on the North Section line; thence South 425 feet and parallel to the East Section line; thence East 485 feet to the East Section line and parallel to the North Section line; thence North 425 feet to the point of beginning, except a tract of land lying in the East half of Section 1, Township 18 South, Range 33 West described as beginning at the Southeast corner of said Section; thence West 62.3 feet; thence in a Northerly direction to a point on the North line 59 feet West of the Northeast corner of said Section; thence East 59 feet to the East line of said Section; thence South along said Section line to the place of beginning, and except beginning at a point on the West right of way line of the proposed highway 356.6 feet South of the North line of Section 1, Township 18 South, Range 33 West; thence South along said right of way 700 feet; thence West at right angles 165 feet; thence North at right angles 700 feet; thence East at right angles 165 feet to the place of beginning.

A tract of land in the Southwest Quarter of Section 27, Township 31 South, Range 37 West of the 6th P.M., Stevens County, Kansas, described as beginning at the Southwest corner rock of said Section 27; thence East along the South Section line a distance of 563.3 feet; thence North parallel to the West Section line a distance of 506.7 feet; thence West parallel to the South Section line a distance of 563.3 feet; thence South along the West Section line a distance of 506.7 feet to the point of beginning.

2. The Property was sold to Central Plains Finance, LLC, the only and highest bidder, for \$2,567,658.85, the full amount of Central Plains' judgment with costs, fees, and interest accrued through the date of sale.

3. The sale was conducted in accordance with applicable law and the orders of this Court.

4. The Motion sought an order confirming the sale on a preliminary basis pending the FCC's authorization to assign applicable FCC licenses associated with the Property and the broadcasting business conducted upon and with the Property. Upon FCC approval, the Receiver shall seek a final order confirming the sale. If the FCC does not approve the assignment of the FCC licenses to Central Plains Finance, LLC, the sale will not be confirmed on a final basis.

5. The licenses pursuant to which Southwind Broadcasting, LLC's radio broadcast business operates (collectively, the "FCC Authorizations") were not part of the Central Plains Finance, LLC's collateral, but the proceeds from the sale of the FCC Authorizations are part of the Central Plains Finance, LLC's collateral. Accordingly, the consummation of the sale of the Property, and the assignment of the FCC Authorizations by the Receiver is contingent on, and subject to, the FCC approving the transfer of the FCC Authorizations to Central Plains Finance, LLC as the highest bidder at the sale. No provision of the Motion or any order granting this Motion shall relieve Central Plains

Finance, LLC from obligations to comply with the Communications Act of 1934, as amended, and the rules, regulations, and orders promulgated thereunder by the FCC, and no assignment or transfer of control of any federal license or authorization issued by the FCC shall take place prior to the issuance of FCC regulatory approval for such assignment or transfer pursuant to applicable FCC regulations. The FCC's rights and powers to take any action pursuant to its regulatory authority over the assignment or transfer of the FCC Authorization to Central Plains Finance, LLC, including but not limited to imposing any regulatory conditions on any such transfer or assignment, are fully preserved, and nothing in the case shall proscribe or constrain the FCC's exercise of such power or authority to the extent provided by law.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Receiver's sale conducted on January 5, 2021 is hereby preliminarily confirmed pending the FCC's authorization of licensure transfer to Central Plains Finance, LLC or its successors and assigns, as the case may be. If the FCC does not approve the assignment of the FCC licenses to Central Plains Finance, LLC, the sale will not be confirmed on a final basis and, instead, the Receiver is ordered to proceed according to the Order of Sale.

THE COURT FURTHER FINDS that the sale was had in all respects in conformity with the law and the orders of this Court.

IT IS SO ORDERED.

This Order is effective as of the date and time shown on the electronic file stamp.

SUBMITTED BY:

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