

**UNITED STATES BANKRUPTCY COURT**  
**MIDDLE DISTRICT OF FLORIDA**  
*Tampa Division*  
www.flmb.uscourts.gov

IN RE:

Chapter 11

JEFFREY L. MILLER INVESTMENTS, INC.,

Case No.: 8:16-bk-10036-MGW

\_\_\_\_\_  
Debtor. \_\_\_\_\_/

**EXPEDITED MOTION TO AUCTION REAL ESTATE  
FREE AND CLEAR OF ALL LIENS, AND APPROVE BIDDING PROCEDURES**

COMES NOW, JEFFREY L. MILLER INVESTMENTS, INC. (the “Debtor”), by and through its undersigned counsel, and hereby files this, its *Expedited Motion to Auction Real Estate Free and Clear of All Liens, and Approve Bidding Procedures*. In support thereof, the Debtor states as follows:

1. On November 23, 2016, the Debtor filed its voluntary petition under Chapter 11 of the Bankruptcy Code (the “Petition Date”).
2. The Debtor is continuing to operate its business and manage its financial affairs as a Debtor-in-possession pursuant to Bankruptcy Code §§1107(a) and 1108.
3. The Debtor is engaged in the ownership and leasing of several parcels of real estate located at 2400, 2250, 2304 and 2410 East Busch Boulevard, Tampa Florida (the “Real Estate Parcels”).
4. On October 10, 2017, the Debtor filed its Application for Authorization to Employ and Retain Auctioneer (**Docket #134**) seeking authority to employ SOLDNOW, LLC, d/b/a Tranzon Driggers (“Tranzon”) as auctioneer for the Debtor, which the Court approved (**Docket #144**).
5. The Debtor seeks authority from the Court to auction the Real Estate Parcels.

6. Presently, Private Financing Alternatives, LLC (“PFA”) holds a lien on the Real Estate Parcels in the approximate amount of \$3,600,000.00.

7. The Hillsborough County Tax Collector and various tax certificate holders also allege that they hold liens in the following amounts on the Real Estate Parcels:

| <b>Creditor</b>                   | <b>Real Estate Parcel</b> | <b>Amount</b> |
|-----------------------------------|---------------------------|---------------|
| Hillsborough County Tax Collector | 2250 E. Busch Boulevard   | \$5,844.59    |
| Hillsborough County Tax Collector | 2250 E. Busch Boulevard   | \$5,638.04    |
| Aroni-G, LLC                      | 2400 E. Busch Boulevard   | \$27,709.36   |
| Green Tax Funding 4               | 2304 E. Busch Boulevard   | \$104,922.34  |
| Garber Tax Management, LLC-1      | 2410 E. Busch Boulevard   | \$190,963.83  |

(collectively, the “Tax Collectors”).

8. The Debtor has filed objections to many of claims of the Tax Collectors contemporaneously with the instant motion.

9. There are no known liens on the Real Estate Parcels other than the above mentioned creditors.

10. The proposed auction of the Real Estate Parcels is not in the ordinary course of business. Therefore, the Debtor proposes to auction the Real Estate Parcels free and clear of liens as provided for by 11 U.S.C. §363(b) and (f).

11. Tranzon and the Debtor anticipate that the net sale proceeds from the auction, after deducting Tranzon’s commission and any other necessary closing costs, will exceed the total claims of PFA and the Tax Collectors.

12. Any net proceeds from the sale of the Real Estate Property at the auction, after payment of closing costs and payoff of the liens, will be escrowed in Debtor's counsel's trust account, pending further Court order.

13. The Debtor has drafted bidding procedures to govern the auction (the "Bidding Procedures"). A copy of the Bidding Procedures is attached hereto as **Exhibit "A"** and incorporated herein by reference. The Debtor seeks Court approval of the Bidding Procedures.

14. The Debtor also requests that the Court schedule a hearing three days after the conclusion of the auction to approve the result of the auction and consider whether the purchaser(s) at the auction are good faith purchasers and entitled to the protection provided to them pursuant to 11 U.S.C. §363(m).

15. Finally, the Debtor requests that the fourteen (14) day stay required under Bankruptcy Rule §6004(h) be waived, and that any order granting this motion is effective immediately upon entry.

**WHEREFORE**, JEFFREY L. MILLER INVESTMENTS, INC., the Debtor, respectfully requests that this Honorable Court enter an order: (1) granting the motion, (2) scheduling a hearing on the motion on an expedited basis, (3) authorizing the Debtor to auction the Real Estate Parcels free and clear of all liens, (4) approving the Bidding Procedures, (5) scheduling a hearing three days after the conclusion of the auction to review the results of the auction, (6) waiving the fourteen day stay required by Bankruptcy Rule §6004(h), and (7) for such other and further relief as this Court shall deem appropriate.

**RESPECTFULLY SUBMITTED** on this 16<sup>th</sup> day of November, 2017.

BUDDY D. FORD, P.A.,

/s/ Jonathan A. Semach

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Attorney for Debtor

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 16<sup>th</sup> day of November, 2017, a true and correct copy of the foregoing was sent by ■ CM/ECF Electronic Mail to:

Adam L Alpert   aalpert@bushross.com, bnkecf@bushross.com;  
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and, by ■ U.S. Regular Mail to:

Robert F. Cohen, CPA, P.A., 2918 Busch Lake Blvd., Tampa, Florida 33614;  
Jeffrey L. Miller Investments, Inc, 3218 West Azeele Street, Tampa, FL 33609;  
Aroni-G, LLC, 8902 N. Dale Mabry Hwy, Ste. 200, Tampa, Florida 33614;  
US Bank as Custodian for Green Tax Funding 4, PO Box 645040, Cincinnati, OH 45264;  
US Bank as Custodian for Garber Tax Management, LLC – 1, PO Box 645040,  
                                  Cincinnati, OH 45264; and  
Twenty (20) Largest Unsecured Creditors.

/s/ Jonathan A. Semach  
Jonathan A. Semach, Esquire (FBN: 0060071)  
Email: *Jonathan@tampaesq.com*

## EXHIBIT “A”

### **BIDDING PROCEDURES**

1. **Assets Being Auctioned.** The Debtor is auctioning the real estate parcels commonly known as: 2250 E. Busch Boulevard, Tampa; 2304 E. Busch Boulevard, Tampa; 2400 E. Busch Boulevard, Tampa; and 2410 E. Busch Boulevard, Tampa.
2. **Auction Location.** The auction will be conducted December 6, 2017 at 11:00 a.m., at the Holiday Inn Express & Suites at 2807 E Busch Blvd. Tampa, FL 33612 with live simulcast bidding available online through a smart phone, laptop or desktop computer.
3. **Qualification as a Live Bidder.** To qualify to bid at the live auction the bidder must sign a “Bidder Certification” form and show a bid deposit to the Court-appointed Auctioneer in the form of a cashier’s check for the appropriate amount made payable to Buddy D. Ford, P.A. Trust Account. The Bidder Certification form can be downloaded from [www.tranzon.com/DG1016](http://www.tranzon.com/DG1016).
4. **Qualification as an Online Bidder.** To qualify to bid online the bidder must sign an “Online Bidder Certification” form and deliver the form via traceable mail service such as Fed Ex, UPS or USPS together with a bid deposit in the form of a cashier’s check for the appropriate amount made payable to Buddy D. Ford, P.A. Trust Account. The Online Bidder Certification and bid deposit must be received by the Court-appointed Auctioneer one day prior to the auction. The Online Bidder Certification form can be downloaded from [www.tranzon.com/DG1016](http://www.tranzon.com/DG1016).
5. **Bidder Deposit Amounts.** The appropriate bidder deposits shall be:

| Address                   | Tax ID      | Sale Day Deposit |
|---------------------------|-------------|------------------|
| 2250 E Busch Blvd, Tampa  | 147196-0100 | \$50,000         |
| 2304 E. Busch Blvd, Tampa | 147195-0000 | \$100,000        |
| 2400 E. Busch Blvd, Tampa | 147197-0000 | \$100,000        |
| 2410 E. Busch Blvd, Tampa | 147198-0000 | \$100,000        |
| All Properties            |             | \$300,000        |

- 6. Firm Offers.** All bids shall be “firm offers” and shall not contain any contingencies to the validity, effectiveness, and/or binding nature of the offer, including, without limitation, contingencies for financing, due diligence or inspection, except that a bid may be contingent on the bidder successfully acquiring all, or any combination, of the four real estate parcels at the auction.
- 7. Minimum Bid Increment.** The bid increment shall be a minimum of \$25,000 subject to the Court-appointed Auctioneer’s discretion to modify the bid increment during the auction.
- 8. Due Diligence.** The Court-appointed Auctioneer will maintain a deal room with financial information concerning the real estate parcels for review by potential bidders. All Property Information Packages and documents can be downloaded from [www.tranzon.com/DG1016](http://www.tranzon.com/DG1016). Potential bidders may also inspect the real estate parcels on November 21, 2017 at 4:00 p.m.
- 9. Order of Sale and Combination of Parcels.** The Court-appointed Auctioneer will determine the order of sale of the individual parcels.
- 10. Execution of Purchase Sale Agreement.** The highest bidder for each parcel or combined parcels will execute the Purchase Sale Agreement (“PSA”) immediately after the auction and tender the bid deposit, if the highest bidder is at the live auction. If the highest bidder participated online, the bidder will execute the PSA via EchoSign, or other similar service selected by the Court-appointed Auctioneer, not later than five o’clock the day of the auction and the bid deposit will be tendered to Buddy D. Ford, P.A. for deposit to the firm trust account. If the online bidder fails to execute the PSA by five o’clock, his/her/its bid deposit shall be forfeited and the next highest bidder (the “Back Up Bidder”) will be deemed the highest and best bidder. The PSA for review by downloading from [www.tranzon.com/DG1016](http://www.tranzon.com/DG1016).
- 11. Approval of Sale(s) by Debtor.** The Debtor, in its sole business discretion, has final authority to veto the sale of any parcel, excluding the sale of 2410 E. Busch Boulevard, Tampa, Florida.
- 12. Approval of Sale(s) by Lender.** Private Financing Alternatives, Inc. (“PFA”) must approve the sales of any parcel unless the total aggregate amount sale price of all of the parcels exceeds the outstanding balance on PFA’s lien.
- 13. Increasing Deposit.** The highest and best bidder(s) will increase their deposit to 10% of the contract price (high bid plus a 10% Buyer’s Premium) by the end of business the next business day after being notified of Court approval.

- 14. Closing of Sale(s).** The closing of the sale(s) will occur on or before December 28, 2017, or 10 days after court approval, whichever is later. The closings of the sale(s) will be handled by Bryant Dunivan, Esquire of Owen & Dunivan, PLLC. The highest bidder(s) are obligated to use Owen & Dunivan, PLLC to close any sale.
- 15. Distribution of Sale Proceeds.** All net proceeds from the sale(s), after payment of all necessary closing expenses including, but not limited to, real estate commissions and closings costs, shall be escrowed with Buddy D. Ford, P.A. pending further order of the Bankruptcy Court.
- 16. Payment of Real Estate Taxes.** The 2017 ad valorem taxes will be pro-rated between the Debtor and the highest bidder(s) as of the closing date. In the event that the Debtor is unable to resolve its issue with the Hillsborough County Tax Collector and various tax certificate holders concerning the pre-petition ad valorem taxes prior to the closing of the sale(s) contemplated in paragraph 14 above, Owen & Dunivan, PLLC will hold funds equal to the alleged pre-petition outstanding ad valorem on the parcels being sold in its trust account pending further order from the Court.
- 17. Cancellation of Auction.** The Debtor and the Auctioneer reserve the right to cancel the auction of any or all parcels in the event that the Debtor receives an acceptable offer to purchase any or all parcels prior to the commencement of the Auction. Should the Debtor decide to cancel the auction, it will file an appropriate motion with the Court and the auction will only be cancelled upon the entry of an order by the Court on said motion.