

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

FILED

JUL 19 2023

JOAN M. GILMER
CIRCUIT CLERK, ST LOUIS COUNTY

231 PARTNERS LLC,)
)
Plaintiff,)
v.) Case No. 22SL-CC03247
)
CANNAVER, LLC,) Division 13
)
Defendant.)

**ORDER APPROVING SUCCESSOR RECEIVER'S SALE AND AUCTION
PROCEDURES; SCHEDULING AUGUST 18, 2023
AS THE AUCTION DATE AND OTHER RELIEF**

Upon review of Successor Receiver's Amended Motion for Entry of an Order (i) Approving Sale and Auction Procedures; (ii) Scheduling a Date to Conduct Successor Receiver's Action; and Other Relief (the "**Amended Motion**") and having heard oral argument, pursuant to Mo. Rev. Stat. § 515.645(1) and the MCRA, this Court hereby GRANTS the Amended Motion, over the objection of Kadaen Construction Company, Inc. such that it is:

ORDERED, ADJUDGED AND DECREED that the Successor Receiver shall be allowed to conduct the Auction (as described and defined in the Amended Motion), and that such Auction shall offer a full and fair opportunity of all potential buyers to purchase the Successor Receiver Asset Package (as defined in the Amended Motion);

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following assets ("**Successor Receiver Asset Package**") shall be the subject of the Auction to be held on August 18, 2023, which shall start at 1:00p CST at the law office of Lathrop GPM LLP, 7701 Forsyth Blvd., Ste. 500, Clayton MO 63105:

- (a) Two Infused Product Manufacturing Facility Licenses issued by the Missouri Department of Health and Human Services related to Cannabis, specifically Licenses MAN000071 and MAN000073;

(b) 100% interest in the property commonly known as 12035-12045 Missouri Bottom Road, Hazelwood, MO 63042;

(c) Equipment and fixtures purchased and utilized by CannaVer in the operation of its business; and

(d) Intellectual Property including but not limited to recipes and techniques and methods related to cannabis productions.

The Auction shall also include the real property commonly known as 12035-12045 Missouri Bottom Road, Hazelwood, MO 63042, being sold by Successor Receiver with the consent and approval of its owner, Guarantor Real Estate Holding Company, LLC.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that those entities (each a “**Potential Bidder**”) wishing to submit a Qualified Bid shall submit their sealed bids to Successor Receiver by 5:00 CT on August 14, 2023.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in order to be designated as a “Qualified Bid”, a bid must (i) have an offer to purchase all or some of the Successor Receiver Asset Package, (ii) provide for either 100% cash or be a Qualified Credit Bid (as defined below), (iii) for bids on the entire Remaining Receivership Asset Package, to be in excess of the amount of \$2,400,000.00 (which amount is equal to LOI as attached to the prior receiver’s Verified Motion for Authorization to Sell Property Free and Clear of Liens, Claims and all Rights of Redemption Pursuant to RSMo. 515.645, filed on April 21, 2023 with the Court), (iv) must include an executed asset purchase agreement, subject to the Successor Receiver’s approval, (v) must disclose all of the parties participating in the bid; (vi) must be accompanied by (i) financial statements or evidence satisfactory to the Successor Receiver that the bidder is willing, authorized, capable, and qualified, financially, legally, and otherwise, of unconditionally performing all obligations under the Qualified Bid; (vi) must be without contingencies; and (vii) must state the bidder agrees to be the Back-Up Bidder (as defined within the Amended Motion). A proposed

Qualified Credit Bid or Qualified Bid must not include any provisions for a break-up fee, expense reimbursement, or similar payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Any entity wishing to submit a Qualified Bid shall also, contemporaneously with its submission of a Qualified Bid, tender a good faith cash deposit (the “**Good Faith Deposit**”) of an amount equal to the lesser of 10% of its Qualified Bid amount, or \$100,000.00, to the bank account of Successor Receiver, held at Triad Bank. Unless otherwise determined by the Successor Receiver, the failure of a Potential Bidder to tender a Good Faith Deposit on or before the Bid Deadline, shall exclude the Potential Bidder from the Auction. The Good Faith Deposit shall be returned to the Potential Bidder, except for the Prevailing Bidder and Back Up Bidder, within 5 business days after the closing on a Sale transaction. The Prevailing Bidder (or Back Up Bidder, if applicable) shall not receive a return of its Good Faith Deposit unless Successor Receiver, in its sole discretion, elects to terminate the sale of the Remaining Receivership Estate Assets.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if two or more Qualified Bids or Qualified Credit Bids are received, the Successor Receiver shall select, in its full and complete discretion (ultimately subject to court approval), no more than three Qualified Bids or Qualified Credit Bids as the Qualified Final Bids, and shall designate those submitted bids that are determined to be Qualified Final Bids on or before 5:00p CT August 16, 2023 and shall notify the Qualified Final Bidders accordingly.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Qualified Final Bidders shall then be given the opportunity to provide their last, best and final offer (“**Qualified Final Offer**”) to the Successor Receiver via auction (attendance may be virtual, via Microsoft Teams, if requested by the Qualified Final Bidders) to be conducted at Successor Receiver

counsel's office at Lathrop GPM LLP, 7701 Forsyth Blvd., Ste. 500, Clayton MO 63105, starting at 1:00p on August 18, 2023, for determination, in the sole discretion of the Successor Receiver (but ultimately subject to court approval), of the successful Qualified Final Offer and Prevailing Bidder, to be announced as soon as possible following the conclusion of the sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Successor Receiver is authorized to conduct the Auction using the bidding procedures articulated within the Successor's Receiver's Motion dated June 16, 2023 (notably, Exhibit B therein), and attached hereto as **Exhibit A**¹;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon conclusion of the Auction, the Successor Receiver shall submit to the Court a Motion seeking the approval of the Qualified Final Offer and Prevailing Bidder, pursuant to the Missouri Commercial Receivership Act and all related notices required therein. The Qualified Final Offer will be subject to the Court's approval, as well as subject to all necessary approvals by Missouri's Department of Health and Senior Services. Should the Prevailing Bidder (or Back Up Bidder, if necessary) not receive approval by DHSS in relation to its Qualified Final Offer, it shall not be entitled to return of its Good Faith Deposit from the Successor Receiver.

Notwithstanding the entry of this Order, any party in interest shall maintain the right to object to the sale process or confirmation or approval of the sale held pursuant to the Auction, which sale remains subject to the Court's approval.

SO ORDERED:



Judge Division 13

- July 19, 2023

Date: _____

¹ The dates included for the return of Qualified Bids, notification to Qualified Final Bidders and Action in the June 12, 2023 filing shall be deemed amended to conform to those dates contained within this Order.

EXHIBIT A

**CannaVer LLC Auction
Case No. 22SL-CC03247**

SALE PROCEDURES

1. **Consent to Jurisdiction.** All bidders shall be deemed to have consented to the core jurisdiction of the Circuit Court of St. Louis County, and to have waived any right to jury trial in connection with any disputes relating to the Auction and/or the Sales Procedures.

2. **Remaining Receivership Estate Assets¹ to be Included in Auction.** The following assets (“Successor Receiver Asset Package”) shall be the subject of the Auction to be held on July 21, 2023, which shall start at 1:00p CST at the law office of Lathrop GPM LLP, 7701 Forsyth Blvd., Ste. 500, Clayton MO 63105:

- (a) Two Infused Product Manufacturing Facility Licenses issued by the Missouri Department of Health and Senior Services related to Cannabis, specifically Licenses MAN000071 and MAN000073;
- (b) 100% interest in the property commonly known as 12035-12045 Missouri Bottom Road, Hazelwood, MO 63042;
- (c) Equipment and fixtures purchased and utilized by CannaVer in the operation of its business; and
- (d) Intellectual Property including but not limited to recipes and techniques and methods related to cannabis productions.

2. **Appeals Intentionally Withheld from Initial Assets to be Included in Auction.** The Successor Receiver has also identified five appeals (the “Appeals”) of DHSS’ denial of licensure, currently under the possession and control of CannaVer. The appeals are made up of three appeals for cultivation facility licenses and two dispensary facility licenses. The Successor Receiver will accept separate bids for those Appeals. Bidders may bid on just the appeals or as an additional bid to the other assets being sold. If bidding on some, or all, of the appeals in addition to other pieces of the Receivership Estate the appeals bid must be identified separately from the other bid. At the sole discretion of the Successor Receiver, he may elect to remove some, or all, of the Appeals from the bidding process.

3. **Qualified Bids Submitted by July 14, 2023.** Those entities (each a “Potential Bidder”) wishing to submit a Qualified Bid shall submit their sealed bids to Successor Receiver by 5:00 CT on July 14, 2023.

4. **Definition of Qualified Bid.** In order to be designated as a “Qualified Bid”, a bid must (i) have an offer to purchase all or some of the Successor Receiver Asset Package, (ii) provide

¹ Capitalized terms not otherwise defined herein shall have the same meaning and accord as in the Successor Receiver’s Amended Motion for Entry of An Order (i) Approving Sale and Auction Procedures; (ii) Scheduling a Date to Conduct Successor Receiver’s Action; and (iii) Other Relief.

for either 100% cash or be a Qualified Credit Bid (as defined below), (iii) for bids on the entire Remaining Receivership Asset Package, to be in excess of the amount of \$2,400,000.00 (which amount is equal to LOI as attached to the prior receiver's Verified Motion for Authorization to Sell Property Free and Clear of Liens, Claims and all Rights of Redemption Pursuant to RSMo. 515.645, filed on April 21, 2023 with the Court), (iv) must include an executed asset purchase agreement, subject to the Successor Receiver's approval, (v) must disclose all of the parties participating in the bid; (vi) must be accompanied by (i) financial statements or evidence satisfactory to the Successor Receiver that the bidder is willing, authorized, capable, and qualified, financially, legally, and otherwise, of unconditionally performing all obligations under the Qualified Bid; (vi) must be without contingencies; and (vii) must state the bidder agrees to be the Back-Up Bidder (as defined below). A proposed Qualified Credit Bid or Qualified Bid must not include any provisions for a break-up fee, expense reimbursement, or similar payment.

5. **Good Faith Deposit.** Any entity wishing to submit a Qualified Bid shall also, contemporaneously with its submission of a Qualified Bid, tender a good faith cash deposit (the "**Good Faith Deposit**") of an amount equal to the lesser of 10% of its Qualified Bid amount, or \$100,000.00, to the bank account of Successor Receiver, held at Triad Bank. Unless otherwise determined by the Successor Receiver, the failure of a Potential Bidder to tender a Good Faith Deposit on or before the Bid Deadline, shall exclude the Potential Bidder from the Auction. The Good Faith Deposit shall be returned to the Potential Bidder, except for the Prevailing Bidder and Back Up Bidder (as each is defined below), within 5 business days after the closing on a Sale transaction. The Prevailing Bidder (or Back Up Bidder, if applicable) shall not receive a return of its Good Faith Deposit unless Successor Receiver, in its sole discretion, elects to terminate the sale of the Remaining Receivership Estate Assets.

6. **Selection of Qualified Final Bidders by July 17, 2023.** If two or more Qualified Bids or Qualified Credit Bids are received, the Successor Receiver shall select, in its full and complete discretion (ultimately subject to court approval), no more than three Qualified Bids or Qualified Credit Bids as the Qualified Final Bidders, and shall notify the Qualified Final Bidders accordingly, by July 17, 2023.

7. **Selection of Prevailing Bidder.** The Qualified Final Bidders shall then be given the opportunity to provide additional bids to the Successor Receiver via auction (attendance may be virtual, via Microsoft Teams, if requested by the Qualified Final Bidders) to be conducted at Successor Receiver counsel's office at Lathrop GPM LLP, 7701 Forsyth Blvd., Ste. 500, Clayton MO 63105, starting at 1:00p on July 21, 2023 (the "**Auction**"). At the July 21, 2023 auction, the Qualified Final Bidders shall be allowed to make additional bids, with the starting bid amount for each Qualified Final Bidder to be no less than the amount included within its Qualified Final Bid. All additional bids made at the auction by the Qualified Final Bidders must exceed the prior offer made (either by themselves or of the other Qualified Final Bidders) by no less than \$100,000. The Qualified Final Bidders shall be allowed to continue to make competing bids until such time as the highest and best offer is determined (the "**Prevailing Bidder**"), as determined by the Successor Receiver (but ultimately subject to court approval).

8. **Back-up Bidder.** Upon the conclusion of the Auction, the Successor Receiver shall have the right (but not the obligation) to select a bidder other than the Prevailing Bidder and to designate such bidder the "**Back-up Bidder.**" If, for any reason, the Prevailing Bidder is unable

or unwilling to timely perform its obligations under the Prevailing Bidder's definitive sale agreement, the Successor Receiver, in the exercise of its business judgment, may consummate the Auction with the Back-up Bidder without further notice or a hearing.

9. **Qualified Credit Bid.** A "Qualified Credit Bid" is a bid by a party with a perfected security interest (a "Secured Party") as against CannaVer and/or any assets owned by, or titled in the name of, CannaVer, that offers to purchase assets of CannaVer that have been pledged as security relating to the indebtedness owed to such Secured Party, respectively, in exchange for a credit of all or a portion of the indebtedness owed to by CannaVer to that Secured Party.

10. **Court and DHSS Approval.** Upon conclusion of the Auction, the Successor Receiver shall submit to the Court a Motion seeking the approval of the Qualified Final Offer and Prevailing Bidder, pursuant to the Missouri Commercial Receivership Act and all related notices required therein. The Qualified Final Offer will be subject to the Court's approval, as well as subject to all necessary approvals by Missouri's Department of Health and Senior Services. Should the Prevailing Bidder (or Back Up Bidder, if necessary) not receive approval by DHSS in relation to its Qualified Final Offer, it shall not be entitled to return of its Good Faith Deposit from the Successor Receiver.

11. **Credit Bids.** All secured lenders will be allowed to credit bid their indebtedness for their collateral.

12. **Successor Receiver Rights Under Sales Procedures.** The Successor Receiver retains the discretion to reject any bid that Successor Receiver deems inadequate or insufficient or that is not in compliance with these Sale Procedures. Further, the Successor Receiver may extend or modify any of the deadlines set forth in these Sales Procedures in its sole discretion.

13. **Headings.** The headings of all sections of these Sale Procedures are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit or aid in the construction or interpretation of any term or provision hereof.