

The relief described hereinbelow is SO ORDERED

Done this 3rd day of August, 2012.



William R. Sawyer
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION**

| | | |
|----------------------------------|---|---------------------------------|
| In Re: |) | Case No: 11-12254-WRS-11 |
| |) | |
| SMALL LOANS, INC., et al. |) | Chapter 11 |
| |) | |
| Debtors. |) | Jointly Administered |

ORDER GRANTING BY NEGATIVE NOTICE CHAPTER 11 TRUSTEE'S MOTION FOR ORDER (1) AUTHORIZING SALE OF CERTAIN OF DEBTORS' CONSUMER CREDIT ACCOUNTS FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES UNDER SECTION 363 OF THE BANKRUPTCY CODE AND (2) APPROVING TERMS FOR SUBMISSION OF COMPETING OFFERS AND AUCTION PROCEDURE

S. Gregory Hays, the chapter 11 bankruptcy trustee (the "Trustee") appointed in the above captioned cases, filed a Motion for Order (1) Authorizing Sale of Certain of Debtors' Consumer Credit Accounts Free and Clear of Liens, Claims and Encumbrances Under Section 363 of the Bankruptcy Code and (2) Approving Terms for Submission of Competing Offers and Auction Procedure [ECF Docket No. 501] (the "363 Sale Motion") in this case on July 26, 2012.

The Court scheduled a hearing on the 363 Sale Motion for August 2, 2012. For purposes of this order, the Court notes that appearances were made at the hearing by Daniel D. Sparks and

Bradley R. Hightower as counsel for the Trustee, by Teresa R. Jacobs, the Bankruptcy Administrator, and by John D. Elrod as counsel for the Omnibus Official Committee of Unsecured Creditors (the "Committee"). No objections were filed regarding the 363 Sale Motion. One objection was made in open court at the hearing but it was subsequently withdrawn.

The Trustee requests that the Court enter an order authorizing the Trustee to sell by auction certain assets owned by Best Buy Autos of Bainbridge, Inc., a non-debtor subsidiary of The Money Tree of Georgia Inc., as well as certain assets owned by Small Loans, Inc., The Money Tree, Inc., The Money Tree of Louisiana, Inc., The Money Tree of Florida Inc., and The Money Tree of Georgia Inc. (collectively, the "Accounts"). The Accounts are described with more particularity in the asset purchase agreements between the Trustee and DealerIndustry.com, LLC, a Florida limited liability company, d/b/a Automotive Capital Corporation, which is the stalking horse bidder regarding the Accounts.¹ The Trustee further requests that the Court approve certain terms and conditions proposed by the Trustee regarding the auction of the Assets, including the procedure for the submission of competing offers by other bidders who may be interested in buying the Accounts.

Based upon the Court's review of the 363 Sale Motion as well as the representations made by the Trustee, the Bankruptcy Administrator, and the Committee at the August 2, 2012 hearing on this matter, and subject to the negative notice procedure described below, the Court finds that the relief requested by the Trustee in the 363 Sale Motion is due to be granted; therefore, it is ORDERED that the 363 Sale Motion is GRANTED. The Trustee is AUTHORIZED to sell the Accounts by conducting an auction in the manner described in the 363 Sale Motion. The bidding procedures proposed by the Trustee are APPROVED. The Court

¹ Copies of the asset purchase agreements are attached as Exhibits A and B to the 363 Sale Motion.

finds that so long as the Accounts are sold by the Trustee in the manner described in the 363 Sale Motion, the amount paid for the Accounts shall be considered fair and reasonable and the successful bidder will be considered to have purchased the Accounts in "good faith" within the meaning of Section 363(m) of the Bankruptcy Code. The Court further finds that the Trustee's sale of the Accounts by auction is in the best interest of the Debtors' estates and the creditors of the estates. Proper and adequate notice regarding the sale has been given to all parties required by law to receive notice of the sale. The Court further finds that the requirements of Section 363 of the Bankruptcy Code have been met regarding the sale and that the Trustee is authorized to sell the Additional Best Buy Accounts (as that phrase is defined in the 363 Sale Motion) to the successful bidder at the auction.

With regard to the Trustee's Motion Pursuant to Fed. R. Bankr. P. 6004(g) for Entry of an Order Under Sections 363(b)(1), 332, and 105(a) Directing the Bankruptcy Administrator to Appoint a Consumer Privacy Ombudsman to Assist in Protecting the Privacy of Certain Consumers Whose Personally Identifiable Information May Be Sold to a Third Party Along with Certain Assets of the Debtors [ECF Docket No. 502] (the "Ombudsman Motion"), the Court is entering a separate order granting that motion and is appointing an ombudsman in this matter. Although Sections 363(b)(1)(B) and 332 contemplate a hearing *after* the appointment of the ombudsman, the Court finds that another hearing, in addition to the August 2, 2012 hearing that the Court conducted regarding the 363 Sale Motion, is not necessary or desirable in this instance.

The Trustee has represented to the Court that the time is of the essence with regard to the Trustee's sale of the Accounts. Moreover, the sales procedures authorized by the Court require any purchaser of the Accounts (as well as any assign or successor of such purchaser) to adopt the same privacy policy that the Debtors had in place on the date of their bankruptcy filings. For

these reasons, the Court is invoking its equitable authority and its authority pursuant to Section 105(a) of the Bankruptcy Code to approve the asset sales described in the 363 Sale Motion on seven (7) days negative notice. This means that the relief granted by the Court regarding the 363 Sale Motion that is described above shall be effective seven (7) days after the entry of this order unless (1) the ombudsman files a pleading with the Court stating that the Trustee's auction of the accounts should not go forward due to privacy concerns or (2) a creditor or party in interest files a written objection with the Court. Because the Court scheduled the August 2, 2012 hearing regarding the 363 Sale Motion and no objections were filed, the Court finds that any objections filed during the seven (7) day negative notice period shall be limited to the privacy issues described in the Ombudsman Motion. In other words, because no one objected to the 363 Sale Motion and the only reason that the Court is delaying entry of an order granting that motion is to allow the ombudsman an opportunity to examine privacy issues related to the Trustee's sale of the Accounts, the Court is limiting the basis upon which a creditor or party in interest may object to the sale of Accounts to the privacy issues described in the Ombudsman Motion. The Court will schedule an expedited hearing to consider any objections that meet this criteria; objections grounded upon any other basis shall not be considered and may be summarily denied by the Court.

To the extent that no objections are received during the seven (7) day negative notice period following the entry of this order, the Court authorizes the Trustee to sell the Accounts by auction and close any sale transactions with the successful bidder within three (3) business days or within such additional time as is needed by the Trustee.

Copies of this order shall be served upon (i) the Bankruptcy Administrator, Teresa R. Jacobs, (ii) counsel for the Debtors, (iii) counsel for the Committee, (iv) the Limited Service List

described in the Order Limiting Notice, Establishing Additional Notice Procedures and Approving Alternative Form of Notice Via Website [ECF Docket No. 91], (v) DealerIndustry.com, LLC, a Florida limited liability company, d/b/a Automotive Capital Corporation, and (vi) those persons who have requested notice pursuant to Fed. R. Bankr. P. 2002.

###END OF ORDER###

This order prepared by:

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