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First American Title  
Jan 2 2004  
AT 30 MINUTES PAST 3 O'CLOCK  
P.M. IN BOOK 182 OF OFFICIAL  
RECORDS, PAGE 06 LINCOLN  
COUNTY, NEVADA.

*Zellie Boucher*  
\$22.00

**CLERK**

OCT 29 2003

*ZN*

**Prepared and Submitted By:**

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Chapter 7 Trustee

*009-011-029*  
*009-011-030*  
*009-011-031*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH - CENTRAL DIVISION

I hereby certify that the annexed and foregoing  
is a true and complete copy of a document, or  
an authorized electronic docket entry, on file  
in the United States Bankruptcy Court for the  
District of Utah.

No. of Pages \_\_\_\_\_  
DATED: \_\_\_\_\_  
TEST: \_\_\_\_\_

Deputy Clerk

In re: )  
)  
W. DAVID WESTON, ) Bankruptcy No. 90-25484 GEC  
SSN: 3773 ) (Chapter 7)  
Debtor. )

**ORDER APPROVING TRUSTEE'S MOTION FOR AUTHORIZATION TO SELL  
PATENTED MINING CLAIMS LOCATED IN LINCOLN COUNTY, NEVADA, FREE  
AND CLEAR OF LIENS, WITH VALID LIENS TO ATTACH TO THE SALES  
PROCEEDS**

The Trustee's "Motion for Authorization to Sell Patented Mining Claims Located in Lincoln County, Nevada, Free and Clear of Liens with Valid Liens to Attach to the Sales Proceeds" (the "Trustee's Motion") filed by Roger G. Segal (the "Trustee"), Trustee of the Chapter 7 bankruptcy estate of W. David Weston (the "Debtor"), came on regularly for hearing before the Honorable Glen E. Clark, United States Bankruptcy Judge, on October 29, 2003. The Trustee was represented by

Order Approving Trustee's Motion for Authorization to Sell  
Patented Mining Claims  
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Bankr. No. 90-25484  
4829 8210-0416.1

his general counsel, Daniel J. Torkelson of Cohn, Rappaport & Segal, P.C. The Court noted other appearances of record.

No objections to the Trustee's Motion or to the sale described in the Trustee's Motion have been filed or received by the Trustee.

The Trustee's Motion requests Court authority to sell certain patented mining claims located on property in Lincoln County, Nevada, more particularly described on **Exhibit "A"** attached hereto (the patented mining claims are hereinafter collectively referred to as the "Property") either to Tom Richardson, under the terms set forth in the "Real Estate Counter Offer" attached to the Trustee's Motion as Exhibit "1," or pursuant to the highest and best offer received by the Trustee under the terms set forth in the Trustee's Motion and the "Notice of Trustee Motion for Authorization to Sell Patented Mining Claims Located in Lincoln County, Nevada, Free and Clear of Liens with Valid Liens to Attach to the Sales Proceeds" (the "Trustee's Notice").

At the time of the hearing, counsel for the Trustee represented that four (4) competing offers for the Property were submitted to the Trustee. Therefore, the Trustee conducted an auction sale of the Property on October 27, 2003, which was attended, either telephonically or in person, by all five of the parties who had submitted offers for purchase of the Property. The highest bid submitted at the auction was a bid in the amount of \$22,100.00 submitted by Scott A. Whipple ("Whipple"). The bid of Whipple constitutes the highest and best offer submitted for the purchase of the Property. The

second highest bid submitted at the auction was a bid in the amount of \$22,000.00 submitted by Thad Faeth.

The Court, having reviewed the Trustee's Motion, the Trustee's Notice, and having heard representations of counsel, the evidence presented at the hearing, and being fully informed in the premises, entered its findings of fact and conclusions of law on the record, which findings and conclusions are incorporated herein. Without limiting the foregoing, the Court finds:

1. The Trustee's Motion and the Trustee's Notice were appropriate and properly given as required by the United States Bankruptcy Code (the "Code") and the Federal Rules of Bankruptcy Procedure (the "Rules");

2. The Trustee and his attorneys have acted reasonably, in good faith and consistent with their duties in full compliance with the terms of the Code and the Rules. There is no evidence of any kind that the Trustee or his agents have acted in a manner which is not in the best interest of the Debtor's bankruptcy estate and the estate's creditors;

3. The terms for submitting higher and better offers set forth in the Trustee's Motion and the Trustee's Notice were reasonably calculated to generate the highest and best offer for purchase of the Property under the circumstances;

4. Whipple has presented the highest and best offer for purchase of the Property, for a purchase price of \$22,100.00, under the terms and conditions set forth in the Trustee's Motion.

5. The sale of the Property to Whipple was negotiated at arms-length between the Trustee and Whipple;

6. Whipple is a good faith purchaser of the Property within the meaning of 11 U.S.C. § 363(m);

7. Sale of the Property pursuant to the terms of the Trustee's Motion is fair and reasonable, is a proper exercise of the Trustee's business judgment, and is in the best interest of the Debtor's estate and the estate's creditors; and

8. It is in the best interest of the estate for the Trustee to close the proposed sale as promptly as possible and good cause exists to vacate the stay imposed by Rule 6004(g).

Accordingly, for good cause, now therefore,

**IT IS HEREBY ORDERED** that:

A. The Trustee's Motion is granted and the Trustee is authorized and directed to sell the Property to Whipple for \$22,100.00 pursuant to the terms of the Trustee's Motion;

B. If Whipple fails to complete the purchase of the Property, the Trustee is authorized and directed to sell the Property to Thad Faeth for \$22,000.00 pursuant to the terms of the Trustee's Motion;

B. Pursuant to §363 of the Bankruptcy Code, said sale shall be free and clear of the following liens and interests, with such liens and interests, to the extent each is determined to be valid, to attach to the sales proceeds:

- (i) the ownership interest of the Trustee, the Debtor and the Estate; and
- (ii) the interests of the Lincoln County Treasurer for 2002 and prior years real property taxes.

C. The Trustee is authorized to execute such documents and take such other actions as are necessary to consummate the sale of the Property:

D. The Trustee is authorized to distribute the proceeds from the sale as follows:

- (i) To pay the Seller's portion of the closing costs and costs of sale;
- (ii) To pay real property taxes to the Lincoln County Treasurer for 2002 and prior years, and taxes for the year 2003, which shall be prorated between the Purchaser and the Trustee as of the closing date; and
- (iii) The balance of the purchase price shall be retained by the Trustee for distribution to in accordance with the priorities established by the Bankruptcy Code.

E. The stay imposed by Rule 6004(g) of the Rules is vacated and the Trustee is authorized to consummate the sale of the Property at any time after entry of this Order.

DATED this 2 day of Nov, 2003.

BY THE COURT:



Honorable Glen E. Clark  
United States Bankruptcy Judge

EXHIBIT "A"  
LEGAL DESCRIPTION

PARCEL A:

Survey No. 4163, embracing a portion of Sections 22 and 23 in Township 1 North, Range 66 East, M.D.M., in the Highland Mining District, Lincoln County, Nevada, and bounded, described and platted as follows:

For the description of the Velma lode claim, at corner No. 1, a cedar post four inches square, four feet long, marked V-1-D.P.-2-4163, in mound of stone, from which the west quarter corner of Section 23, Township 1 North, Range 66 East, M.D.M., bears South 86°56'04" West 813.8 feet distant;

Thence, first course, North 67°26' East 1037.1 feet to corner No. 2, a cedar post four inches square, four feet long, marked V-2-L.C.-4-4163, in mound of stone;

Thence, second course, South 89°31' East 462.9 feet to corner No. 3, a cedar post four inches square, four feet long, marked V-3-4163, in mound of stone;

Thence, third course, South 22°34' East 598.5 feet to corner No. 4, a four inch pine tree, marked V-4-4163, in mound of stone;

Thence, fourth course, North 89°31' West 462.9 feet to corner No. 5, a cedar post four inches square, four feet long, marked V-5-C-2-4163, in mound of stone;

Thence, fifth course, South 67°26' West 2037.1 feet to corner No. 6, a cedar post four inches square, four feet long, marked V-6-4163, in mound of stone;

Thence, sixth course, North 22°34' West 300 feet to a point from which discovery bears North 67°26' East 839.8 feet distant; 598.5 feet to corner No. 1, the place of beginning.

Beginning, for the description of the Last Chance Silver Mining Co. lode claim, at corner No. 1, a cedar post four inches square, four feet long, marked L.C.-1-D.P.-1-4163, in mound of stone, from which said quarter section corner bears North 81°41' West 529.3 feet distant;

Thence, first course, North 3°19' East 320 feet to a point from which discovery bears North 67°26' East 730 feet distant; 631.5 feet to corner No. 2, a cedar post four inches square, four feet long, marked L.C.-2-4163, in mound of stone;

Thence, second course, North 67°26' East 1350 feet to corner No. 3, a cedar post four feet long, four inches square, marked L.C.-3-4163, in mound of stone;

Thence, third course, South 3°19' West 631.5 feet to corner No. 4, identical with corner No. 2 of said Velma lode claim;

Thence, fourth course, South 67°26' West 1350 feet to corner No. 1, the place of beginning.

Beginning, for the description of the Dead Pine lode claim, at corner No. 1, identical with corner

No. 1 of said Last Chance Silver Mining Co. lode claim;

Thence, first course, North 67°26' East 312.9 feet to corner No. 2, identical with corner No. 1 of said Velma lode claim;

Thence, second course, South 22°34' East 291 feet to a point from which discovery bears South 65°46' West 666 feet distant; 591 feet to corner No. 3, a cedar post four inches square, four feet long, marked D.P.-3-M.L.-2-4163, in mound of stone;

Thence, third course, South 65°46' West 794.7 feet to corner No. 4, a cedar post four inches square, four feet long, marked D.P.-4-M.L.-1-4163, in mound of stone;

Thence, fourth course, South 62°42' West 702.2 feet to corner No. 5, a cedar post four inches square, four feet long, marked D.P.-5-4163, in mound of stone;

Thence, fifth course, North 21°34' West 601.5 feet to corner No. 6, a pine post four inches square, four feet long, marked D.P.-6-4163, in mound of stone;

Thence, sixth course, North 64°01' East 1183.4 feet to corner No. 1, the place of beginning.

Beginning, for the description of the Columbine lode claim, at corner No. 1, a cedar post four inches square, four feet long, marked C-1-4163, in mound of stone, from which said quartet section corner bears North 67°23'20" West 1510.3 feet distant;

Thence, first course, North 67°26' East 569.7 feet to corner No. 2, identical with corner No. 5 of said Velma Lode claim;

Thence, second course, South 89°31' East 930.3 feet to corner No. 3, a cedar post four inches square, four feet long, marked C-3-4163, in mound of stone;

Thence, third course, South 27°18' East 300 feet to a point from which discovery bears North 89°31' West 759.2 feet distant; 600 feet to corner No. 4, a cedar post four inches square, four feet long, marked C-4-4163, in mound of stone;

Thence, fourth course, South 89°31' West 930.3 feet to corner No. 5, a cedar post four inches square, four feet long, marked C-5-4163, in mound of stone;

Thence, fifth course, South 67°26' West 569.7 feet to corner No. 6, a cedar post four inches square, four feet long, marked C-6-M.L. 4-4163, in mound of stone;

Thence, sixth course, North 27°18' West 600 feet to corner No. 1, the place of beginning.

Beginning for the description of the Missing Link Fraction lode claim, at corner No. 1, identical with corner No. 4 of said Dead Pine lode claim, from which said quarter Section corner bears North 26°20' West 886.21 feet distant;

Thence, first course, North 65°46' East 794.7 feet to corner No. 2, identical with corner No. 3 of said Dead Pine lode claim;

Thence, second course, North 68°21' East 467.5 feet to corner No. 3, identical with corner No. 1 of said Columbine lode claim;

Thence, third course, South 27°18' East 600 feet to corner No. 4, identical with corner No. 6 of said Columbine lode claim;

Thence, fourth course, South 67°31' West 1296.2 feet to corner No. 5, a cedar post four inches square, four feet long, marked M.L.-5-4163, in mound of stone;

Thence, fifth course, South 76°18' West 108.6 feet to a point from which discovery bears North 68°06' East 78.6 feet distant; 379.5 feet to corner No. 1, the place of beginning.

NOTE: The above metes and bounds legal description previously appeared in Patent No. 589023 in the Office of the Bureau of Land Management, Carson City, Nevada.

PARCEL B:

The Rhondda and Rhondda No. 1 lode mining claims, designated by the Surveyor General as Survey No. 4167, embracing a portion of Sections 27 and 28, Township 1 North, Range 67 East, M.D.M., in the Ely Mining District, Lincoln County, Nevada, and bounded, described and platted as follows:

Beginning for the description of the Rhondda lode claim at corner No. 1, a pine post four inches square, four feet long, marked R-1,R.1-1, 4167, in a mound of stone, from which the East quarter corner of Section 28, Township 1 North, Range 67 East, M.D.M., bears North 35°56'30" West 884.5 feet distant;

Thence, first course, North 57°19' West 1500 feet to corner No. 2, a pine post four inches square, four feet long, marked R-2,R.1-4 4167, in mound of stone;

Thence, second course, North 32°41' East 300 feet to a point from which discovery bears South 57°19' East 718.3 feet distant; 600 feet to corner No. 3, a pine post four inches square, four feet long, marked R-3,4167, in mound of stone;

Thence, third course, South 57°19' East 1500 feet to corner No. 4, a pine post four inches square, four feet long, marked R-4,4167, in mound of stone;

Thence, fourth course, South 32°41' West 600 feet to corner No. 1, the place of beginning.

Beginning, for the description of the Rhondda No. 1 lode claim, at corner No. 1, identical with corner No. 1 of said Rhondda lode claim;

Thence, first course, South 32°41' West 175.4 feet to a point from which discovery bears North 57°19' West 945 feet distant; 475.4 feet to corner No. 2, a pine post four inches square, four feet long, marked R.1-2,4167, in mound of stone;

Thence, second course, North 57°19' West 1500 feet to corner No. 3, a pine post four inches square, four feet long, marked R.1-3,4167, in mound of stone;

Thence, third course, North 32°41' East 475.4 feet to corner No. 4, identical with corner No. 2 with said Rhondda lode claim;

Thence, fourth course, South 57°19' East 1500 feet to corner No. 1, the place of beginning.

NOTE: The above metes and bounds legal description previously appeared in document recorded September 15, 1926 in Book D-1, Page 412, Lincoln County, Nevada. Records.

#### PARCEL C:

Newport and New Port No. 1 lode mining claims, designated by the Survey General as Survey No. 4165, embracing a portion of Sections 21 and 28, Township 1 North, Range 67 East, M.D.M., in the Ely Mining District, Lincoln County, Nevada, and bounded, described and platted as follows:

Beginning for the description of the Newport lode claim, at corner No. 1, a cedar post four inches square, four feet long marked N-1.N.1-3-4165, in mound of stone, from which the Northwest corner of Section 28, Township 1 North, Range 67 East, M.D.M., bears North 84°29' West 3346.9 feet distant;

Thence, first course, North 75°15' East 300 feet to a point from which discovery bears South 20°12 minutes East 717.5 feet distant; 600 feet to corner No. 2, a pine post four inches square, four feet long, marked N-2-4165, in mound of stone;

Thence, second course, South 20°12' East 1500 feet to corner No. 3, a cedar post four inches square, four feet long, marked N-3-4165, in mound of stone;

Thence, third course, South 75°15' West 452.7 feet intersect line 2-3 of the Newport Fraction



lode claim, Survey No. 4033; 600 feet to corner No. 4, a cedar post four inches square, four feet long, marked N-4-4165, in mound of stone;  
Thence, fourth course, North 20°12' West 219.9 feet intersect line 2-3 of said Newport Fraction lode claim; 1500 feet to corner No. 1, the place of beginning.

Beginning for the description of the Newport No. 1 lode claim at corner No. 1, a cedar post four inches square, four feet long, marked N.;1-1-4165, in mound of stone, from which said Section corner bears north 88°44'5" West 2397.7 feet distant;  
Thence, first course, North 75°15' East 5.7 feet intersect line 2-3 an East line of the Swansea No. 3 lode claim Survey No. 4033, and line 4-1 of the Triangle Fraction lode claim Survey No. 4033; 52.6 feet intersect line 2-3 of said Triangle Fraction lode claim; 600 feet to corner No. 2, a pine post four inches square, four feet long, marked N.1-2-4165, in mound of stone;  
Thence second course, South 40°05' East 500 feet to corner No. 3, identical with corner No. 1 of said Newport lode claim;  
Thence, third course, South 20°12' East 950 feet to corner No. 4, a pine post four inches square, four feet long, marked N.1-4-4165, in mound of stone;  
Thence, fourth course, South 75°15' West 220.1 feet intersect line 2-3 of said Newport Fraction lode claim, at South 52°17' East 497.6 feet from corner No. 2; 300 feet to a point from which discovery bears North 20°12' West 527.5 feet distant; 544.8 feet intersect line 4-1 of said Newport Fraction lode claim, and line 2-3 an East side line of the Swansea No. 1 lode claim, Survey No. 4033; 500 feet to corner No. 5, a cedar post four inches square, four feet long, marked N.1-5-4165, in mound of stone;  
Thence, fifth course, North 20°12' West 174.6 feet intersect line 4-1 of said Newport Fraction lode claim and said line 203 of the Swansea No. 1 lode claim; 359.8 feet intersect lines 1-2 and 3-4 of said Newport Fraction and Triangle Fraction lode claims, at South 56°53' West 115.8 feet from corners Nos. 2 and 3, respectively; 876.5 feet intersect line 2-3 of said Triangle Fraction lode claim, at North 31°09' West 503.7 feet from corner No. 3; 950 feet to corner No. 6, a cedar post four inches square, four feet long, marked N.1-6-4165, in mound of stone;  
Thence, six course, North 40°05' West 136.5 feet intersect line 2-3 of said Triangle Fraction lode claim; 522 feet intersect line 4-1 of said Triangle Fraction lode claim and said line 2-3 of the Swansea No. 3 lode claim; 550 feet to corner No. 1, the place of beginning.

NOTE: The above metes and bounds legal description previously appeared in document recorded September 15, 1926 in Book D-1, Page 414, Lincoln County, Nevada. Records