

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

_____)		
In re:)		Chapter 7
ARCHIE’S OIL SERVICES, INC.,)		
Debtor.)		Case No. 08-15275-JNF
_____)		

_____)		
In re:)		Chapter 7
ARCHIE’S AND KEN’S OIL AND)		
HEATING SERVICE, INC.,)		Case No. 08-15276-JNF
Debtor.)		
_____)		

_____)		
In re:)		Chapter 7
KEN’S OIL AND HEATING SERVICES,)		
INC.,)		Case No. 08-15280-JNF
Debtor.)		
_____)		

**DEBTORS’ VERIFIED MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363(b) AND 365,
FED. R. BANKR. P. 2002(a)(2), 6004 AND 6006 AND MLBR 2002-5 AND 6004-1 FOR
ORDER (A) APPROVING THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE
DEBTORS’ ASSETS, FREE OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES,
(B) APPROVING ASSUMPTION AND ASSIGNMENT OF UNEXPIRED LEASES AND
EXECUTORY CONTRACTS, AND (C) APPROVING BIDDING PROCEDURES AND
AUTHORIZING DEBTORS TO SOLICIT HIGHER AND BETTER OFFERS
PURSUANT TO PROPOSED NOTICE OF SALE**

Pursuant to 11 U.S.C. §§ 105(a), 363(b) and 365, Fed. R. Bankr. P. 2002(a)(2), 6004 and 6006 and MLBR 2002-5 and 6004-1, Archie’s Oil Services, Inc. ("Archie’s"), Archie’s and Ken’s Oil and Heating Services, Inc. ("A&K"), and Ken’s Oil & Heating Services, Inc. ("Ken’s," and collectively with Archie’s and A&K, the "Debtors") the debtors in the above-captioned chapter 11 cases hereby move this Court for entry of orders:

- (a) authorizing and approving the sale of the Debtors’ Business Assets (as hereinafter defined) free and clear of all liens, claims, encumbrances and other interests to the person who submits the highest and best offer for the Debtors’ Business Assets (the "Buyer");
- (b) authorizing the assumption of certain executory contracts and unexpired leases in connection with the sale of the Business Assets and the assignment of such contracts and leases to Buyer pursuant to section 365 of the Bankruptcy Code;

- (c) approving bidding procedures; and
- (d) approving the form and manner of notice of the proposed sale and bidding procedures, substantially in the form attached hereto as **Exhibit A** (the "Notice of Sale").

In support of this motion (the "Sale Motion"), the Debtors respectfully state as follows:

BACKGROUND

A. History of Debtors

1. Archie's Oil Services, Inc. ("Archie's") has been a leading supplier of home-heating oil and related services in the Southeastern Massachusetts residential and commercial heating markets for many year since its inception in December 1966.
2. During the 2001 heating oil season, an oil delivery driver left his truck unattended while it was being filled with oil at the property located at 140 Howard St. Brockton, MA. Approximately 1,100 gallons of home heating oil spilled into the ground and seeped into a local creek behind the property.
3. This unfortunate accident resulted in a spill which generated approximately \$1 million of environmental cleanup expenses at the contaminated site. As a result, Archie's operational cash flow was drained and it began to incur debt in order to maintain ongoing operations.
4. Meanwhile, the company had difficulty obtaining necessary financing due to a concurrent 21-E issue on the site.
5. As a result of all of the above, Mr. Arthur Alden, Archie's founder and president, suffered adverse health effects and found it increasingly difficult to focus on the day-to-day business operations. During summer, 2007, Archie's negotiated with Ken's Oil and Heating Service, Inc. ("Ken's"), to form a joint venture. This venture created certain synergies, whereby Ken's was aggressively marketing the home-heating oil discount market place, and Archie's continued to service higher-end margin accounts. Archie's customer base increased from 1,500 customers to 2,500 customers as a result of this venture.

B. Events Leading to Bankruptcy

6. Nevertheless, in late 2007 and early 2008, Archie's continued to experience cash flow problems on account of the oil spill. However, Archie's (along with Ken's and the joint venture's) cash flow problems became further strained as a result of the energy crisis that took shape during the 2007-2008 home-heating oil season. It became increasingly expensive to purchase oil for resale and the Debtors could not generate enough cash flow on a daily basis to pay for the vast amounts of oil that their customers demanded. The Debtors needed \$30,000 to \$50,000 per day in order to supply its existing customers, and, because the Debtors extended 30 day-credit to customers, not enough cash flow was generated on a daily basis to purchase oil.

C. Prepetition Loan Agreements

7. Prior to the Petition Date, Rockland Trust Company ("Rockland") loaned funds to Archie's pursuant to (i) the Commercial Promissory Note dated April; 20, 2004 in the original principal amount of \$500,000, Loan No 310370500 ("First Note"), (ii) the Promissory Note dated March 11, 2005 in the original principal amount of up to \$150,000 ("Second Note," and collectively with First Note, the "Notes"). As of July 21, 2008, Archie's owed Rockland no less than **\$604,819.82** (the "Indebtedness"),¹ consisting of:

	<u>First Note</u>	<u>Second Note</u>	<u>TOTALS</u>
Principal	\$443,360.46	\$116,883.13	\$560,243.59
Interest	\$9,606.33	\$16,177.28	\$25,783.61
Other Fees and Penalties	\$11,391.15	\$7,401.47	\$18,792.62
TOTALS	\$464,357.94	\$140,461.88	\$604,819.82

8. In connection with Archie's obligations to Rockland, the principals of Archie's, including, without limitation, Mr. Alden, executed a Guaranty dated April 20, 2004 (the "Guaranty").

¹ Rockland expressly reserves all of its rights, remedies and claims under the Loan Documents and any and all other documents and agreements by and between Rockland and any of the Debtors and under applicable law, including, without limitation, Rockland's claims for amounts arising on account of legal and related fees incurred in connection with enforcement of and/or collection under the Loan Documents, both prior to and after the Petition Date.

9. In order to secure its obligations under the Notes, Archie's executed certain mortgages and security agreements (collectively, the "Security Agreements," and together with the Notes and the Guaranty, the "Loan Documents") granting security interests to Rockland in substantially all of its assets including, without limitation, Archie's real property (the "Real Property") and any and all of its accounts, inventory, equipment, general intangibles, contract rights, securities and any and all proceeds thereof (collectively, the "Personal Property," and together with the Real Property, the "Collateral"). The Security Agreements consist of: (i) a Security Agreement dated April 20, 2004, which has been duly perfected by recording a UCC Financing Statement in the Office of the Secretary of State for the Commonwealth of Massachusetts, (ii) a Security Agreement dated March 11, 2005, which has been duly perfected by recording a UCC Financing Statement in the Office of the Secretary of State for the Commonwealth of Massachusetts, (iii) a Mortgage and Security Agreement dated April 20, 2004 a copy of which is recorded in the Plymouth County Registry of Deeds at Book 27993, Page 3, and (iv) an Assignment of Leases and Rents dated April 20, 2004, a copy of which is recorded in the Plymouth County Registry of Deeds at Book 27993, Page 22. True and correct copies of all of the Loan Documents are attached as exhibits to the Rockland Relief Motion (hereinafter defined) and are incorporated herein by reference.

10. Prior to the Petition Date, Archie's was in default under the terms of the Loan Documents, and Rockland commenced foreclosure proceedings upon the collateral securing Archie's obligations under the Loan Documents. As a result of the Debtors' chapter 7 bankruptcy petitions, Rockland was unable to proceed with its foreclosure sales.

D. Other Prepetition Liens

11. The Debtors are unaware of any additional liens on or security interests in their properties, other than: (i) a municipal lien certificate issued on February 22, 2008, indicating outstanding real estate taxes on the Real Property; and (ii) an execution of a judgment obtained by Global Companies, LLC, that was recorded against the Real Property on June 16, 2008.

E. Postpetition Events

12. On July 18, 2008 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 7 of the Bankruptcy Code.

13. On July 24, 2008, Rockland filed the Emergency Verified Motion of Rockland Trust Company for Relief from the Automatic Stay, Pursuant to 11 U.S.C. §§ 362(d)(1) and (2), Fed. R. Bankr. P. 4001 and 9014, and MLBR 4001-1, to Foreclose on its Collateral (the "Rockland Relief Motion") and this Court scheduled a hearing thereon to be held on July 30, 2008.

14. On July 25, 2008, each of the Debtors file the *Debtor's Motion to Convert Chapter 7 Case to Another Chapter* (the "Conversion Motion").

15. On July 30, 2008, this Court held the hearing on the Rockland Relief Motion and, based on representations of counsel of the Debtors and of Rockland, the Court granted Rockland relief from the automatic stay.

16. Thereafter, the Debtors and Rockland reached an agreement regarding the disposition of the Debtors' assets, and Rockland's collateral, pursuant to a going-concern sale under section 363 of the Bankruptcy Code. Rockland agreed to support the Debtors' Conversion Motion, to consent to the Debtors' use of its cash collateral and to provide additional financing, if necessary, in exchange for the Debtors' commitment to sell all or substantially all of its assets through a court-approved bankruptcy sale, with such sale to close on or before August 29, 2008.

17. On August 1, 2008, the Debtors filed the *Assented-To Emergency Motion for Emergency Hearing Regarding Debtors' Motion to Convert Chapter 7 Cases to Chapter 11 Cases*. This Sale Motion is conditioned upon the approval of the Conversion Motion no later than the date of approval of this Sale Motion.

18. As set forth in the *Debtors' Motion for Interim and Final Orders: (A) Authorizing Debtors to Obtain Postpetition Secured Financing and to Utilize Cash Collateral, (B) Granting Adequate Protection, and (C) Scheduling Final Hearing* (the "Cash Collateral and DIP Motion"), filed contemporaneously herewith, the Debtors have negotiated with Rockland regarding the continued use of

cash collateral and the extension of credit to market and prepare for the sale of all of the Debtors' business assets (the "Business Assets"). The Business Assets consist of all of the Debtors' assets arising in connection with the Debtors' operations and management of the heating oil and related services business, including, without limitation, its accounts receivable, general intangibles, customer lists, goodwill, equipment, real property, fixtures, chattel paper, contract rights, inventory, vehicles and any and all other assets, whether expressly mentioned herein, in which Rockland holds a security interest.

Marketing Efforts

19. Over the course of the past several years, Archie's has received numerous offers to purchase the business. Mr. Alden, based on his experience in running Archie's for over forty years, has extensive knowledge of the heating oil and related services industry in the Massachusetts market, and has identified all of the entities and persons who may be interested in purchasing the Debtors' assets on a going-concern basis. Mr. Alden has notified these entities and persons of the prospective sale of the Debtors. Because of the nature of the heating and oil business, the unique nature of the assets proposed to be sold, and the value of the assets stemming from their "going-concern" nature, Mr. Alden believes that it is unlikely that any parties other than those which he has identified would be interested in presenting bids.

20. Rockland, in its preparation for its foreclosure proceedings, engaged Tactical Solutions, LLC ("Tactical"), to provide analysis regarding the Debtors' businesses. The Debtors and Tactical shall coordinate to identify all parties that may be interested in purchasing the Business Assets and shall provide such parties with the Notice of Sale and access to any due diligence which is reasonably requested.

The Proposed Sale

21. The Debtors have not yet identified a stalking horse bidder and proposes to select a stalking horse bidder from the submission of bids due on or before August 13, 2005.

22. The Debtors intend to solicit offers for the purchase and sale of some or all of their Business Assets. The Debtors do not intend to accept any conditions or contingencies in any such offers

with respect to the sale of the Business Assets except: (a) material adverse change conditions; and (b) the Bankruptcy Court's entry of an order approving the sale.

23. The Debtors expect to sell the Business Assets as a going-concern pursuant to the proposed sale. Notwithstanding the foregoing, the Debtors shall accept bids for portions of the Business Assets and, in such instances, the bidder must identify the types of the Business Assets which it seeks to purchase (e.g., the customer contracts, the accounts receivable, the equipment, the real property, etc.) and the values that the bidder ascribes to each category of assets. The Debtors expressly reserve the right, subject to the consent of Rockland, to sell the Business Assets to more than one bidder, in the event that multiple bidders seek different types or categories of assets.

24. The proceeds of the proposed sale shall be deposited with Rockland for application to all amounts owed to Rockland and, within five (5) business days of the Sale Closing Date, Rockland shall return any sale proceeds to the extent that they exceed the amounts owed by any of the Debtors to Rockland under or in connection with any pre- and/or post-petition financing agreements.

25. Notwithstanding anything to the contrary herein or in the Notice of Sale, at any time prior to or during the Auction, Rockland may submit a credit bid for any or all of the Business Assets up to and including the outstanding amounts owed by the Debtors, or any of them, to Rockland under or in connection with the pre- and post-petition loan agreements. By way of example, the maximum amount of Rockland's credit bid shall be the sum of: (i) the outstanding amounts owed to Rockland under the Loan Agreements (including, without limitation, amounts owed on account of reasonable collection and legal fees and expenses); and (ii) the outstanding amounts owed to Rockland on account of any financing or related financial concessions (including the use of cash collateral) provided by Rockland to the Debtors after the Conversion Date.

Sale Free of Claims and Interests

26. Except as expressly set forth herein, the Debtors seek to sell the Business Assets free and clear of claims and interests (excepted for permitted encumbrances, such as various telephone, cable television and telecommunications, sewer and utility easements).

27. Based upon the title search complete on or around March 7, 2008, a copy of which is attached hereto as **Exhibit B**, the Debtors believe that all such claims and interests (other than the claims of taxing authorities) are junior to the lien of Rockland.

28. Thus, excepting only (i) permitted encumbrances and (ii) liens securing claims for delinquent real estate taxes (which will be paid in full and discharged at the closing of sale, if the Real Property is sold), the Business Assets, including the Real Property, shall be sold free and clear of all claims and interests.

Assumption and Assignment of Executory Contracts and/or Unexpired Leases

29. The Debtors anticipate that the Buyer will seek to assume certain executory contracts and/or unexpired leases in connection with the purchase of the Business Assets. The Debtors will assume and assign to Buyer any executory contracts and/or unexpired leases (collectively, the "Assigned Contracts"), as such contracts and/or leases are identified by the Buyer in its offer. The Buyer is obligated for any cure payments on account of the assumption and assignment of the Assigned Contracts, and it will provide adequate assurance of future performance of its obligations under any Assigned Contracts.

Contemplated Timing of Auction and Sale

30. The Debtors believe that the sale price of the Business Assets can be maximized by soliciting higher and better offers through a bankruptcy auction process but timed so as to permit a sale closing before the end of August. The Debtors lack the financial ability and financing to continue operations after August 29, 2008. More important, because the heating oil industry is cyclical and its busiest season arises during the fall and winter months, it is crucial that the sale transaction close as soon as possible, in order to provide the buyer of the Business Assets sufficient time to prepare for the

upcoming seasons. Accordingly, the Debtors propose the following deadlines with respect to the proposed sale of the Business Assets:²

- | | | |
|-----|---|-----------------|
| (a) | Deadline to Submit Bids for Purchase of Business Assets | August 13, 2008 |
| (b) | Notice of Selection of Stalking Horse (if any) | August 15, 2008 |
| (c) | Sealed Bid Auction and Sale Hearing | August 18, 2008 |
| (d) | Sale Closing Date | August 29, 2008 |

Alternatives to the Sale

31. The principal alternative to the sale is continuation of foreclosure proceedings by Rockland. The Debtors believe that a foreclosure sale will yield significantly diminished proceeds for Rockland and concomitantly, for the Debtors' estates (if any). Accordingly, proceeding with a sale process should not increase measurably any administrative obligation on the estate and should yield significant benefits for the Debtors' estates.

RELIEF REQUESTED AND BASIS THEREFOR

Jurisdiction

32. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105(a), 363 and 365, Fed. R. Bankr. P. 6004, 6006, and 9019 and MLBR 6004-1.

Relief Requested

33. By this Motion, the Debtors request entry of two separate orders, to be considered at two successive hearings.

34. First, the Debtor requests that the Court enter an order substantially in the form of **Exhibit C** attached hereto (the "**Procedures Order**"): (i) approving notice of the Bid Procedures Hearing

² The Debtors respectfully request that this Court schedule Sealed Bid Auction, if necessary, and the Sale Hearing for August 18, 2008 or as soon as practicably thereafter, as this Court's schedule would permit.

and the matters heard and considered by the Court therein as proper, timely, adequate and sufficient notice under the circumstances; (ii) approving the Notice of Sale substantially in the form attached hereto as **Exhibit A**, including approving the bidding procedures (the "Bid Procedures"), as set forth therein, and (iv) waiving the 10-day stay requirement of Fed. R. Bankr. P. 6004(g).

35. Second, the Debtors request entry of an order, to be subsequently filed with this Court upon the selection of a stalking horse bidder, (the "Sale Order"): (i) approving notice of the proposed sale of the Business Assets, the bidding procedures, the objection period and the Sale Hearing as proper, timely, adequate and sufficient notice under the circumstances, (ii) approving and authorizing the proposed sale of the Business Assets to the Buyer pursuant to the Bidding Procedures, (iii) approving and authorizing the assumption and assignment of the Assigned Contracts to be transferred to the Buyer, and (v) waiving the 10-day stay requirement of Fed. R. Bankr. P. 6004(g) and 6006(d).

Bid Procedures

36. The Debtors request that the Court approve the following Bid Procedures, which are set forth more fully in the Notice of Sale:³

- (a) To be a Qualified Bid, such bid must,
 - (i) be in writing and irrevocable;
 - (ii) be received by the Debtors no later than August 13, 2008, and served on the Debtors and Rockland in the manner set forth in the Notice of Sale;
 - (iii) be accompanied by a deposit equal to no less than 10% of the proposed purchase price, such deposit to be either in the form of a certified bank check or a wire transfer, delivered prior to the Bid Deadline to the undersigned counsel for the Debtors;
 - (iv) not be conditioned upon any contingencies (such as, without limitation any due diligence investigation, the receipt of financing, or any board of directors, shareholders or other entity approval) except for: (a) material adverse change; and (b) entry of an order approving the sale in mutually agreeable form and substance;
 - (v) include evidence of financial wherewithal to consummate the purchase, including (as applicable) the assumption and assignment of any unexpired leases to be acquired hereunder;

³ Capitalized terms used in this Sale Motion which are not otherwise defined shall have the meanings ascribed to them in the Notice of Sale.

- (vi) disclose the identity of the bidder's organization, including confirmation that its bid is made as principal for the bidder's account and, if not, the basis upon which the bidder is acting and the identities of all other participants (if any); and
- (vii) otherwise comply with the Bidding Procedures set forth in the Notice of Sale.

(b) The Court hold a sealed bid auction in open Court on August 18, 2008 or such other date as soon as practicably thereafter as is convenient for the Court, at which time the Court approve the sale of the Business Assets to the highest bidder.

Argument

37. Section 363(b)(1) of the Bankruptcy Code provides that a trustee, after notice and a hearing, may sell, other than in the ordinary course of business, property of the estate, when a sound business purpose justifies such action. 11 U.S.C. § 363(b)(1); In re Aerovox, Inc., 269 B.R. 74, 80 (Bankr. D. Mass. 2001) (Feeney, J.); compare In re Lionel Corp., 722 F.2d 1063, 1070-71 (2d Cir. 1983). One of the more important factors to be considered in a sale of substantially all assets of a debtor under section 363(b) is whether the value of the assets are increasing or decreasing in value. Lionel, 722 F.2d at 1070; accord In re Boogaart of Florida, Inc., 17 B.R. 480, 483-84 (Bankr. S.D. Fla. 1981) ("Where, as here, the value of the assets is rapidly decreasing and the [estate is] suffering continuing losses, liquidation of assets prior to the proposal and confirmation of [a plan] may be desirable because it will ultimately increase the amounts distributed to creditors after [a plan is] confirmed").

I. IT IS A REASONABLE EXERCISE OF THE DEBTORS' BUSINESS JUDGMENT TO SELL THE BUSINESS ASSETS

38. A debtor's business decision to sell its assets other than in the ordinary course of business "should be approved by the court unless it is shown to be so manifestly unreasonable that it could not be based on sound business judgment, but only bad faith, or whim or caprice". In re Cadkey Corp., 317 B.R. 19, 22-23 (D. Mass. 2004), citing In re Aerovox, 269 B.R. at 80 (internal citation omitted). Fed. R. Bankr. P. Rule 6004 provides that the sale of property outside the ordinary course of business may take place by private sale. Fed. R. Bankr. P. 6004(f)(1).

39. Here, the Debtors' decision to sell their assets is supported by sound business judgment. The Business Assets, or a substantial portion of them, are encumbered by the liens of Rockland, which, in its own right, may pursue a foreclosure sale of the collateral at its convenience. Rockland has agreed to

postpone the foreclosure sale based on the Debtors' and Rockland's agreement to proceed with a going-concern sale of the Debtors' businesses. If the proposed sale generates sufficient proceeds to satisfy the amounts owed by the Debtors, or any of them, to Rockland under or in connection with any pre- and post-petition financing agreements, the remaining proceeds shall inure the benefit of the Debtors' creditors and their estates.

II. THE SALE IS PROPOSED IN GOOD FAITH

40. Courts have also required that the sale price be reasonable and that the sale result from arm's length, good faith negotiations with the buyer. See, e.g., *In re Abbotts Dairies of Pa.*, 788 F.2d 143, 147-50 (3d Cir. 1986). Neither the Debtors nor their principals shall purchase the Business Assets, and accordingly, the proposed sale does not constitute an attempt or scheme by the Debtors to retain control of their business at the expense of their creditors. Thus, the contemplated transactions do not amount to a consolidation, merger or *de facto* merger of the Debtors and Buyer.

III. THE BIDDING PROCEDURES ARE FAIR

41. The Bidding Procedures set forth in the Notice are intrinsically fair to all parties and are designed to permit the Debtors' estates, as well as Rockland, to obtain the benefit of the best possible price for the sale of the Business Assets. The Debtors are confident that the winning bid that emerges from this process will be the highest and best bid reasonably obtainable for the Business Assets. Accordingly, the Debtors respectfully submit that the proposed sale of the Business Assets is entirely consistent with guidelines adopted by the courts, and that a prompt sale is in the best interest of the Debtors' creditors and their estates and will maximize the amount that the estates may realize for the value of the Business Assets.

IV. THE DEBTOR CAN SELL THE BUSINESS ASSETS FREE AND CLEAR

42. Section 363(f) of the Bankruptcy Code provides that –

The trustee may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if –

- (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

- (2) such entity consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

43. Rockland has consented to the proposed sale pursuant and the satisfaction of its liens from the sale proceeds. Except as set forth on **Exhibit B**, the Debtors are unaware of any other parties alleging liens and/or security interests in the Business Assets. The Debtors expressly reserve the right to challenge the validity, priority and perfection of such junior interests, but for purposes of this Motion, observes only that each such interest is reducible to a claim, albeit an unsecured one at best. Consequently, the Business Assets may be sold free and clear of such interests (except for permitted encumbrances) pursuant to section 363(f)(5) (and perhaps otherwise). See In re Haskell L.P., 321 B.R. 1, 9 (Bankr. D. Mass. 2005) (Feeney, J.) (“The focus of § 365(f)(5) is on whether the interest is reducible to a claim”); accord In re Healthco Int’l, Inc., 174 B.R. 174, 176 (Bankr. D. Mass. 1994) (likening a proceeding under section 363(f)(5) to a section 1129(b)(2) “cramdown” proceeding).

Assumption and Assignment of Unexpired Leases and Executory Contracts

44. If, as the Debtors anticipate, the sale of the Business Assets includes assumption and assignment of unexpired leases and/or executory contracts, the Debtors shall request that the Court determine the cure required under section 365(f) (if any) and, if applicable, whether the Buyer has demonstrated adequate assurance of future performance under section 365(f)(2) of the Bankruptcy Code. The Debtors anticipate that those leases and contracts (if any) not assumed and assigned pursuant to the sale will be rejected under any subsequent plan of liquidation.

Waiver of 10 Day Stay

45. Inasmuch as the Debtors believe that a prompt sale of the Business Assets is necessary to ensure that the market price of the Business Assets is maximized and to protect the interests of the Debtors, their estates, and all other parties in interest, the Debtors respectfully submit that there is good

cause to waive the 10-day stay insofar as the stay may be otherwise applicable to the Procedures Order and the Sale Order pursuant to Fed. R. Bankr. P. 6004(g) and 6006(d).

CONCLUSION

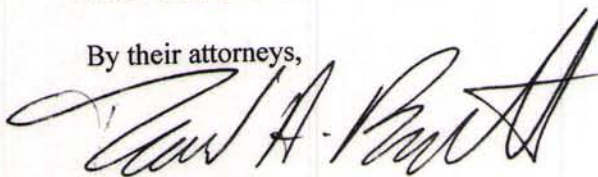
WHEREFORE, the Debtors respectfully request that this Court enter an Order (substantially in the form attached hereto as **Exhibit C**): (a) approving notice of the Bid Procedures Hearing and the matters heard and considered by the Court therein as proper, timely, adequate and sufficient under the circumstances; (b) approving the Notice of Sale substantially in the form attached hereto as Exhibit A, including approving the Bidding Procedures set forth therein; (c) waiving the 10-day stay requirement of Fed. R. Bankr. P. 6004(g); and (d) granting such other and further relief as is just and proper.

August 4, 2008

Respectfully submitted,

ARCHIE'S OIL SERVICES, INC.,
ARCHIE'S AND KEN'S OIL AND HEATING
SERVICE, INC., and
KEN'S OIL AND HEATING SERVICES, INC.

By their attorneys,



/s/ David A. Barrett

David Barrett (BBO#665387)

Hulien & Barrett LLC
62 Main Street Suite 201
Kingston, MA 02364

(877) 473-7852

HulienBarrett@gmail.com

VERIFICATION OF ARTHUR ALDEN, DULY AUTHORIZED REPRESENTATIVE OF THE DEBTORS, TO CERTAIN FACTUAL ALLEGATIONS HEREIN

I, Arthur Alden, a duly authorized representative of the Debtors, have reviewed the allegations of this Sale Motion and hereby verify that, to the best of my knowledge, information and belief, after a reasonable and diligent investigation, those factual allegations are true and accurate.

Dated: August 1, 2008



Arthur Alden
President, Archie's Oil Company