

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO**

In re:)	Case No. 05-55272
)	Jointly Administered
)	
UNITED PRODUCERS, INC.)	Chapter 11
)	
)	
Debtors)	Judge Charles M. Caldwell
)	
)	Hearing July 27, 2005 at 10:00 am

**_____
OBJECTION OF THE UNITED STATES TRUSTEE TO THE MOTION OF
UNITED PRODUCERS, INC. FOR AN ORDER AUTHORIZING: (1) THE SALE
OF CERTAIN REAL PROPERTY FREE AND CLEAR OF INTERESTS, LIENS,
CLAIMS AND ENCUMBRANCES PURSUANT TO § 363(b) AND (f) OF THE
BANKRUPTCY CODE; AND (2) THE LEASEBACK OF SAID REAL
PROPERTY PURSUANT TO A CERTAIN LEASE AGREEMENT**

Now comes Saul Eisen, the United States Trustee for Region 9, pursuant to his administrative responsibilities, and states that he has reviewed the Motion of United Producers, Inc. for an Order Authorizing: (1) the Sale of Certain Real Property Free and Clear of Interests, Liens, Claims and Encumbrances Pursuant to § 363(b) and (f) of the Bankruptcy Code; and (2) the Leaseback of Said Real Property Pursuant to a Certain Lease Agreement ("Motion") filed by United Producers, Inc. and Producers Credit Corporation, (the "Debtors") and objects as follows:

1. The Debtors filed their voluntary petitions under chapter 11 of the Bankruptcy Code on April 1, 2005. The Debtors are corporations operating a business as an agricultural cooperative organization owned by farmers and ranchers, providing a range of services including livestock marketing, risk management and production of management services.

2. The instant Motion, filed on July 12, 2005, asks for Court approval of a purchase agreement for the sale of two (2) parcels of real property which serve as Debtors' corporate headquarters. This Motion includes a request by the Debtors to enter into a lease agreement with the prospective purchaser to "continue operations in an uninterrupted fashion."

TERMS AND CONDITIONS OF SALE

3. The instant Motion does not provide adequate information as to whether the terms and conditions of the contract for sale, including the purchase price, is fair and reasonable, other than the statement "[o]n January 7, 2005, the Properties were appraised for Seven Hundred Sixty Five Thousand and 00/100 Dollars (\$765,000.00). The property is carried on the Debtor's books at a value of \$276,000." The Motion fails to include information regarding who prepared the appraisal and for what purpose. No appraisal report is attached to the Motion. The purchase agreement attached to the Motion, with an addendum, sets forth the terms and conditions of the sale, including certain contingencies for both the buyer and seller relating to the triple net lease to be entered into between the parties for the rent of the property being sold.

4. The Motion includes terms of a lease with a Lease Agreement attached as Exhibit B. The terms include the annual and monthly rate Debtors will pay to the purchasers. No information is provided as to the reasonableness of the amount and how it was calculated. No information is provided as to what the cost would be if the Debtors moved their operations to another facility and paid rent at another location. The Lease Agreement includes additional costs which the Debtors are obligated to pay, including, but not limited to, real estate taxes and both tenant and landlord insurance. Additional information and clarification is necessary.

IDENTITY OF PROSPECTIVE PURCHASERS

5. The Motion fails to provide adequate information regarding the prospective purchasers. The Motion includes a statement on page 3, paragraph 10, that “[t]he Buyer has no affiliation with Debtors.” The purchasers are identified as Hamilton Commerce Ltd., John D. Ross and Barbara D. Ross. The United States Trustee is unsure whether the sale to the proposed purchasers is an arms length transaction.

6. A real estate broker commission is contemplated in Addendum A attached to the Purchase Contract, which is incorporated in the Motion. The commission requested is 4% of the purchase price and is to be split between Hamilton Commerce Realtors/Ben Dougan and Independence Real Estate Services/John D. Ross. It is stated in the Motion that both brokers represent the buyer, neither representing the Debtor. It is curious to the United States Trustee that the real estate brokers are, or appear to be, the prospective purchasers or related to them and questions again whether this is an arms length transaction.

DISBURSEMENT OF PROCEEDS

7. The Motion states that \$30,600.00 from the proceeds of the sale will pay the broker commission. A real estate broker is a professional required to be retained pursuant to 11 U.S.C. § 327(a) and with Court approval. No application has been filed with the Court requesting the approval of employment of a real estate broker. Therefore, no disbursement can be made to this professional without first obtaining the requisite Court approval for retention. In fact, given that the real estate brokers are the prospective purchasers, or affiliated to the prospective purchasers, they should not be compensated for a transaction from which they will benefit.

WHEREFORE, the United States Trustee respectfully requests that the Motion of United Producers, Inc. for an Order Authorizing: (1) the Sale of Certain Real Property Free and Clear of Interests, Liens, Claims and Encumbrances Pursuant to § 363(b) and (f) of the Bankruptcy Code; and (2) the Leaseback of Said Real Property Pursuant to a Certain Lease Agreement as filed be denied, or for such other further relief as the Court deems appropriate.

Respectfully submitted,

SAUL EISEN
United States Trustee Region 9

by: /s/ Lenore Kleinman
Lenore Kleinman (#0036778)
Trial Attorney
U.S. Department of Justice
Office of the U.S. Trustee
170 North High Street, Suite 200
Columbus, OH 43215
(614) 469-7446
FAX 469-7448

CERTIFICATE OF SERVICE

A copy of the foregoing “Objection” was sent by either electronic mail or regular U.S. Mail, postage prepaid, to Reginald W. Jackson, Esq., Attorney for the Debtor, 52 East Gay Street (PO Box 1008), Columbus, Ohio 43215 (43216-1008), this 21st day of July, 2005.

/s/ Lenore Kleinman
Lenore Kleinman