

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

Assignment ID: TMI75259

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	COURT ORDER		
SEQUENCE:	1		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
FIRST FRUITS BUSINESS MINISTRY, LLC		02/13/2024	Limited Liability Company: SOUTH CAROLINA
RECEIVING PARTY DATA			
Company Name:	TriPharma, LLC		
Street Address:	1278 Glenneyre St., #145		
City:	Laguna Beach		
State/Country:	CALIFORNIA		
Postal Code:	92651		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	87338351	TRISYNEX	
CORRESPONDENCE DATA			
Fax Number:	9497254100		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	9497254000		
Email:	amina@stradlinglaw.com		
Correspondent Name:	Arnold V Mina		
Address Line 1:	Stradling Yocca Carlson & Rauth		
Address Line 2:	660 Newport Center Drive, Suite 1600		
Address Line 4:	Newport Beach, CALIFORNIA 92660		
ATTORNEY DOCKET NUMBER:	107832-0000		
NAME OF SUBMITTER:	ARNOLD MINA		
SIGNATURE:	ARNOLD MINA		
DATE SIGNED:	03/06/2024		
Total Attachments: 11			
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

First Fruits Business Ministry, LLC,
Debtor.

Case No. 22-02747-hb

Chapter 11

ORDER AUTHORIZING THE SALE OF SUBSTANTIALLY ALL ASSETS
OF THE ESTATE FREE AND CLEAR OF CERTAIN LIENS, CLAIMS,
ENCUMBRANCES AND OTHER INTERESTS PURSUANT TO
11 U.S.C. §§ 363(b)(1) AND (f), AND GRANTING RELATED RELIEF

This matter came before the Court on the Notice and Application for Sale of Property Free and Clear of Certain Liens and Encumbrances (the “Sale Motion”) [ECF No. 344] filed on January 10, 2024 by Christine E. Brimm, Subchapter V Trustee (“Trustee”) for First Fruits Business Ministry, LLC (the “Debtor”),¹ seeking authorization pursuant to 11 U.S.C. §§ 363(b)(1) and (f), Rule 6004, Fed.R.Bankr.P., and SC LBR 6004-1, to sell substantially all assets of the Debtor and the Debtor’s estate to TriPharma, LLC (“TriPharma”) for purchase consideration the Trustee has calculated to have a monetary equivalent value of \$1,155,905.55, as more fully stated below. The sale is made pursuant to the Debtor’s Confirmed Plan, which provides for such a sale.² The terms of TriPharma’s proposed purchase are stated in the TriPharma, LLC Offer to Purchase Assets of

¹ The Trustee is acting pursuant to the expanded powers granted to her by the Order Granting Motion for the Removal of Debtor and Debtor-in-Possession, and for the Expansion of the Powers of the Subchapter V Trustee entered on December 29, 2023 [ECF No. 343].

² On June 17, 2023, the Court entered the Order Confirming Plan [ECF No. 257], confirming the Debtor’s Amended Plan of Reorganization for Small Business Under Chapter 11 [ECF No. 192] filed on March 27, 2023 (the “Confirmed Plan”).

First Fruits Business Ministry, LLC (the “TriPharma Offer”), a copy of which is attached to the Sale Motion.³

Following service of the Sale Motion and notice to the creditors and parties in interest in this case, the Court conducted a hearing on the proposed sale on February 12, 2024. Based upon the Sale Motion and related filings, the Confirmed Plan, and the record of the prior attempted sale of the assets in this case, the Court makes the following findings of fact and conclusions of law:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157(a) and (b), and Local Civil Rule 83.IX.01, D.S.C. This matter is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(N).
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. The Debtor filed a petition for relief under Chapter 11, Subchapter V, of the United States Bankruptcy Code (11 U.S.C. § 101, et seq.) on October 7, 2022. The Debtor remained in possession of its assets, first as a debtor-in-possession pursuant to 11 U.S.C. §§ 1182(2) and 1184, and then under the provisions of its confirmed plan of reorganization pending a sale of the Assets until the Debtor was removed as debtor-in-possession by the Court’s Order entered on December 29, 2023 [ECF No. 343].
4. The Trustee has served as the Subchapter V trustee in this case. By the Court’s Order

³ The Sale Motion also seeks related relief for the sale, including a) a finding that TriPharma is a good faith purchaser entitled to the protection of 11 U.S.C. § 363(m); (b) the provision that the 14-day stay under Rule 6004(h), Fed.R.Bankr.P., shall not apply to the Order authorizing the proposed sale; and (c) a determination that the provisions of 11 U.S.C. § 1146(a) shall apply to the authorized sale of the Assets, in the event that any recording or other similar fees or tax would otherwise be due by the transfer of ownership.

entered on December 29, 2023 [ECF No. 343], the Trustee was granted expanded trustee powers and is now in control of the estate and its assets in this case.

5. The Confirmed Plan is a plan of liquidation, providing for the sale of the Debtor's assets.

6. In conjunction with the filing of the Confirmed Plan, on March 23, 2023, the Debtor filed its Notice and Application for Sale of Property Free and Clear of Liens and Encumbrances (the "First Sale Motion") [ECF No. 187], seeking authorization to sell the Assets to TriPharma or, in the event of competing bids for the assets, to the successful bidder at an auction to be conducted by the Court pursuant to the provisions of a bidding procedures Order to be entered.

7. Also on March 23, 2023, the Debtor filed a motion for approval of bidding procedures [ECF No. 186] to govern the sale of the Assets under the First Sale Motion, and on March 27, 2023, the Court entered the Order Approving Bidding Procedures (the "First Bidding Procedures Order") [ECF No. 194].

8. On May 4, 2023, following expiration of the notice period for the First Sale Motion, the Court entered the Order Authorizing Sale of Property Free and Clear of Certain Liens and Encumbrances (the "May Authorization Order") [ECF No. 222].

9. TriPharma is a creditor and party in interest in this case by virtue its filed Claim No. 5 in the amount of \$5,374,420.83 ("Claim No. 5"), its filed Claim No. 6 in an unliquidated amount, and its filed Claim No. 8 (which relates to an asserted equity interest in the Debtor), and by virtue of Claim No. 4 in the amount of \$982,821.42 ("Claim No. 4") filed by Knobbe, Martens, Olson & Bear LP, which TriPharma subsequently acquired and now holds.⁴

10. TriPharma, the Debtor and the Debtor's principal, Roger J. Catarino, were involved

⁴ TriPharma filed its Notice of Transfer of Claim Other Than for Security on December 11, 2023 [ECF No. 335], providing notice of and evidencing the transfer of Claim No. 4 to TriPharma.

in prepetition litigation for over a decade, and the Confirmed Plan, the First Sale Motion and the bidding procedures stated in the First Bidding Procedures Order were the product of negotiation among them. Unfortunately, in negotiating an agreement on the sale bidding procedures, certain issues and possible scenarios were not addressed. These issues resulted in a contentious and lengthy sale hearing and auction on August 10, 2023.

11. On August 11, 2023, the Court entered the Sale Order (the “August Sale Order”) [ECF No. 277] upon the First Sale Motion, authorizing the sale of the Assets to Trimfit for Life, LLC (“Trimfit”), as the successful bidder in the auction, for the purchase price in the amount of \$3,505,000.00. During the hearing on August 10, 2023, and in the August Sale Order, the Court noted that many of the issues raised were not addressed in the First Bidding Procedures Order, including requirements regarding proof of funding for bidders to close the purchase of the Assets at their bid prices.

12. Trimfit was unable to obtain the funding it needed to purchase the Assets pursuant to its winning bid in the auction. There was no approved back-up bidder. The auction sale under the First Sale Motion failed.

13. In the aftermath of the failed sale under the First Sale Motion, TriPharma presented a new purchase offer, the TriPharma Offer, which is similar to its purchase offer in the First Sale Motion.

14. The Sale Motion seeks authorization for the sale to TriPharma of substantially all of the Debtor’s assets, which include but are not limited to all of the Debtor’s furniture, fixtures, accounts receivable, contract rights, inventory (materials, supplies and finished goods), equipment (including the Debtor’s computers), general intangibles, intellectual property (including but not limited to all patents, patents in process, patents pending, trademarks, copyrights, clinical studies,

and trade secrets), the domain www.trimfitforlife.com, claims and defenses in the litigation pending in the United States District Court for the Central District of California as Case No. 8:21-cv-01806-JVS-JDE (the “California Litigation”), proceeds of the foregoing assets and rights, and books and records (collectively, the “Assets”), but excluding cash on hand, retainers (if any) held by professionals employed by the estate, bank deposit, bank accounts, Shopify accounts, PayPal accounts, the DIP account(s), and any estate account held by the Trustee (collectively, the “Excluded Assets”). The Assets are to be sold free and clear of all liens, claims, encumbrances and other interests pursuant to 11 U.S.C. § 363(f), except for (1) the liens and security interests securing the Debtor’s indebtedness to the United States Small Business Administration (the “SBA Debt”), and (2) the claims and defenses of the parties in the California Litigation.

15. As consideration for its purchase of the Assets, TriPharma’s purchase price (the “Purchase Price”) shall consist of (a) \$190,000.00 cash paid at closing; (b) the assumption of the SBA Debt,⁵ and (c) if TriPharma is the successful purchaser, TriPharma’s subordination of Claim No. 4 and Claim No. 5 to the payment of other allowed unsecured claims in Class 4 of the Confirmed Plan. The effect of the claims subordination is substantial. The Trustee has calculated the monetary value of the TriPharma Purchase Price to be \$1,155,905.55.

16. In conjunction with the filing of the Sale Motion, the Trustee filed a motion to establish bidding procedures and requirements for the sale under the Sale Motion. On January 25, 2024, the Court entered the Order [ECF No. 360] (the “Bidding Procedures Order”) granting the motion. The Bidding Procedures Order established procedures and requirements for competing bids in the sale of the Assets under the Sale Motion. The bidding procedures and requirements

⁵ As of October 12, 2022, the SBA Debt was in the amount of \$449,919.17. See Claim No. 1 filed October 12, 2022. The Confirmed Plan provides for the assumption of the SBA Debt by TriPharma if TriPharma is the successful purchaser of the Assets. See ECF No. 192 (Confirmed Plan); ECF No. 257 (Order Confirming Plan).

stated therein include provisions to address issues not addressed in the First Bidding Procedures Order.

17. No purchase offers or bids for the Assets to compete with the TriPharma Offer were made in compliance with the Bidding Procedures Order. The TriPharma Offer is the only purchaser offer before the Court for consideration.

18. The Trustee states her belief that the TriPharma Offer is the only viable offer for the Assets, and that the TriPharma Offer provides reasonable value for the Assets and the best recovery reasonably obtainable for the creditors under the circumstances in this case. The Trustee states that, in her opinion, the best interests of the estate and the creditors would be served by the sale to TriPharma pursuant to the TriPharma Offer.

AUTHORIZATION FOR THE SALE TO TRIPHARMA

19. The sale before the Court is necessary and appropriate to consummate the provisions of the Confirmed Plan. The TriPharma Offer is the only viable offer for the Assets. The sale to TriPharma will enable payment of the administrative expenses of the estate and other priority claims, it will provide for payment of the SBA Debt, and it will provide a better payment to the non-priority unsecured creditors in Class 4 of the Confirmed Plan than they would otherwise receive. The terms of the TriPharma Offer, including the Purchase Price, are reasonable under the facts of this case. The Court grants the sale authorization and the related relief sought in the Sale Motion.

1. Authorization Under 11 U.S.C. § 363(b)(1)

20. Pursuant to 11 U.S.C. § 363(b)(1), after notice and a hearing, the Trustee may sell property of the estate other than in the ordinary course of business. In this case, the creditors of the estate and parties in interest were served with notice of the proposed sale, and of the deadline

date for objections or responses to the Sale Motion and the date and time of the scheduled hearing on the sale, by service of the Sale Motion on January 10, 2024.⁶ They also had notice by the Confirmed Plan that the Assets would be sold, and that TriPharma was a proposed purchaser. Accordingly, good and proper notice of the sale of the ~~Condominiums~~ ^{assets} as sought in the Sale Motion was provided.

21. No objections were filed or made to the Sale Motion. The sale to TriPharma is in accordance with the provisions of the Confirmed Plan, it is for fair and reasonable value, and it is in the best interest of the estate. Authorization for the sale of the Assets under 11 U.S.C. § 363(b)(1) is proper and is granted.

2. Authorization Under 11 U.S.C. § 363(f)

22. The Assets are subject to the security interests and liens securing the SBA Debt. The terms of the proposed sale to TriPharma provide that TriPharma receive the assets subject to these security interests and liens, and TriPharma shall be responsible for payment of the SBA Debt. There is no other secured debt. To the extent a creditor might assert an unknown lien or interest in the Assets, by such creditor's failure to object to the sale, or to otherwise make known its asserted interest, such creditor is deemed to have waived any objection and to have consented to the sale to TriPharma.

23. TriPharma has also agreed that the Assets will be sold to it subject to the claims and defenses in the California Litigation.

24. Other than the security interests and liens securing the SBA Debt and the claims and defenses in the California Litigation, to which the sale is subject, the sale to TriPharma free and clear of liens, claims, encumbrances and other interests is thus proper under 11 U.S.C. § 363(f)(3).

⁶ Certificate of Service filed on January 10, 2024, ECF No. 350. The proposed order substantially in the form of this Order was served on January 11, 2024 [ECF 352].

C. Status of Buyer as a Good Faith Purchasers

25. TriPharma is an arm's-length purchaser. It has negotiated with the Debtor and the Trustee for the purchase of the Assets. The evidence in the record supports the finding that TriPharma is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m).

D. The Stay of Order Under Rule 6004(h) Shall Not Apply

26. Bankruptcy Rule 6004(h) provides that, "An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." In this case, the Court finds that the 14-day stay should not apply to the Order approving the sale, especially given that no objections were filed or raised to the sale. The process to arrange and make the sale of the Assets has been long, and the continued expenses that the estate and other parties have incurred, militate the determination that the stay should not apply to this Order. Under the circumstances of this case, it is important and in the best interest of the estate that the sale close promptly after authorization. The 14-day stay shall not apply to this Order authorizing the sale.

E. Applicability of 11 U.S.C. § 1146(a)

27. Pursuant to 11 U.S.C. § 1146(a), "The issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under a plan confirmed under section 1129 or 1191 of this title, may not be taxed under any law imposing a stamp tax or similar tax." This section saves the Trustee and TriPharma from payment of any document recording fees for property sold under a confirmed Chapter 11 plan.

28. The sale proposed in the Sale Motion is in accordance with the provisions of the Confirmed Plan. The Confirmed Plan provides that the Assets are to be sold by a sale motion. Therefore, the provisions of 11 U.S.C. § 1146(a) apply to the sale under this Order.

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED, ADJUDGED AND DECREED that:

A. The sale of the Assets to TriPharma, as provided in the Sale Motion and the TriPharma Offer, is authorized pursuant to the provisions of the Confirmed Plan and 11 U.S.C. § 363(b)(1).

B. The sale of the Assets to TriPharma is subject to the security interests and liens securing the SBA Debt, and the Assets are subject to the claims and defenses in the California Litigation, but the sale of the Assets to TriPharma otherwise shall be, and is, free and clear of all liens, claims, encumbrances and other interests pursuant to 11 U.S.C. § 363(f).

C. TriPharma is a good faith purchaser entitled to the protections of 11 U.S.C. § 363(m).

D. The 14-day stay provision of Bankruptcy Rule 6004(h) shall not apply to this Order.

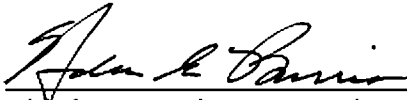
E. The provisions of 11 U.S.C. § 1146(a) apply to the sale authorized by this Order, as the sale is in accordance with the provisions of the Confirmed Plan.

AND IT IS SO ORDERED.

FILED BY THE COURT
02/13/2024



Entered: 02/13/2024


Chief US Bankruptcy Judge
District of South Carolina

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:

First Fruits Business Ministry, LLC,

Debtor.

Case No. 22-02747-hb

Chapter 11

REPORT OF SALE

DATE OF SALE: February 22, 2024

TYPE OF SALE: Private

PROPERTY SOLD:

Except for those assets designated as Excluded Assets below, all of the bankruptcy estate's rights, title, and interests, in and to all assets of the Debtor, including, but not limited to, to all of the Debtor's furniture, fixtures, accounts receivable, contract rights, inventory (materials, supplies and finished goods), equipment (including the Debtor's computers), general intangibles, intellectual property (including but not limited to all patents, patents in process, patents pending, trademarks, copyrights, clinical studies, and trade secrets), the domain www.trimfitforlife.com, claims and defenses in the litigation pending in the United States District Court for the Central District of California, case 8:21-cv-01806-JVS-JDE ("California Litigation"), proceeds of the foregoing assets and rights, and the books and records, except for and excluding the Excluded Assets. Excluded Assets: Cash on hand, retainers (if any) held by professionals employed by the Estate, bank deposits, bank accounts (including Shopify, PayPal, the DIP Account(s), and any Estate account held by the Trustee)(collectively "Excluded Assets").

PURCHASER: Tripharma, LLC

PRICE: \$190,000 cash.

As additional consideration, purchaser assumed the secured claim of the SBA, and Tripharma's proofs of claim (POC #5 and POC #4) are subordinated as provided in the order approving the sale.

SALE AGENT, AUCTIONEER, BROKER: None.

COMMISSION PAID ON SALE: None.

EXPENSES OF SALE: None.

DEBTOR'S EXEMPTION: None.

LIENS PAID FROM SALE PROCEEDS/ATTACHING TO PROCEEDS: None.

The SBA's secured claim was assumed pursuant to the sale order, consistent with the terms of the confirmed Plan.

NET TO ESTATE: \$190,000

AMOUNT DISBURSED TO DATE: -0-

AMOUNT RETAINED BY SUBCHAPTER V TRUSTEE: \$190,000

RESPECTFULLY SUBMITTED on this the 29th day of February, 2024.

BARTON BRIMM, P.A.

/s/ Christine E. Brimm
Christine E. Brimm, Subchapter V Trustee
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