

# **EXHIBIT 13**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA

IN RE: ) CHAPTER 11  
) BANKRUPTCY NO. 08-2751  
AGRIPROCESSORS, INC. )  
) (Doc. 366)  
Debtor )

**ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 363 AND FED. R. BANKR. P. 2002, 6004, 6006 AND 9014 APPROVING (V) BID PROCEDURES FOR THE CONDUCT OF AN AUCTION; (B) FIXING THE DATE AND TIME OF THE SALE HEARING; AND (C) FIXING MANNER AND NOTICE OF SALE HEARING**

This matter coming before the Court on that portion of the Motion<sup>1</sup> approving, among other things, (A) Bid Procedures for the conduct of an Auction; (B) Fixing the date and time of the Sale Hearing; and (C) Fixing manner and notice of Sale Hearing, filed by Joseph E. Sarachek, as Chapter 11 Trustee (the "Trustee") of Agriprocessors, Inc. (the "Debtor"), for, *inter alia*, entry of an order (this "Bidding Procedures Order") approving the bid procedures (the "Bid Procedures"), a copy of which is attached hereto as Exhibit "A" and made a part hereof, and approving the form and manner of the notice of the Sale Motion, together with certain related relief as modified on the record of the hearing of this matter; and the Court having reviewed the Motion;

**FOUND AND DETERMINED THAT:**

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334,

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<sup>1</sup> Unless otherwise expressly defined herein or the Bid Procedures attached hereto as Exhibit A, any capitalized term shall have the meaning ascribed to such term in the Motion.

B. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (N);

C. Proper and adequate notice of the Bid Procedures and the hearing thereon has been given and that no other or further notice is necessary;

D. The Trustee has articulated good and sufficient reasons for approving (a) the manner of notice of the Motion; (ii) the form of notice of the Motion (the "Sale Notice") to be served on creditors and parties interest, including prospective bidders, and (iii) the Bid Procedures.

E. The Trustee has articulated good and sufficient reasons for approving the Bid Procedures;

F. The Bid Procedures are reasonable and appropriate and represent the best method for maximizing the return for the Assets;

**AND**, after due deliberation and sufficient cause appearing therefor.

**NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

**Scheduling of Auction and Sale Hearing Dates**

1. The Auction shall be held on March 23, 2009 at 1:30 p.m. Central Time in the courtroom of the Honorable Paul J. Kilburg, United States Bankruptcy Judge, United States Bankruptcy Court, Suite 800, 425 Second Street S.E., Cedar Rapids, Iowa 52406, to consider any offers made in accordance with the Bid Procedures (in the form hereinafter approved by this Court).

2. The sale hearing shall be held on March 24, 2009 at 9:30 a.m. Central Time or as soon thereafter as counsel may be heard, in the United States

Bankruptcy Court for the Northern District of Iowa at 425 2<sup>nd</sup> Street, SE, 8<sup>th</sup> Floor, Cedar Rapids, Iowa 52401 (the "Sale Hearing") to consider approval of the sale of Assets to the Successful Bidder designated after the Auction, pursuant to sections 105(a), 363 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 9014, free and clear of all liens, claims and encumbrances (the "Asset Sale"); and approval of the assumption and assignment of the Executory Contracts.

3. The form of the Notice of the Asset Sale, the Auction and the Sale Hearing (the "Notice") annexed hereto as Exhibit B is hereby approved.

4. On or before March 1, 2009, the Trustee shall serve by regular mail a copy of this Order, together with exhibits thereto, and the Notice upon: (a) counsel for First Bank, (b) counsel for MLIC Assets Holdings LLC (as successor to Agribusiness Finance Group of Metropolitan Life Insurance Company), (c) counsel to the Committee, (d) counsel to the Debtor, (e) all parties that have expressed interest in acquiring all or a portion of the Debtor's assets; (f) all known creditors who have or assert a lien against the Debtor's assets; (g) the United States Attorney's Office for the Northern District of Iowa, and (h) the Office of the United States Trustee.

**Objection Deadline**

5. Objections, if any, to the Asset Sale shall be filed electronically with the Clerk of the Bankruptcy Court and served upon counsel to the Trustee, Halperin Battaglia Raicht, LLP, 555 Madison Avenue, 9<sup>th</sup> Floor, New York, New York 10022, attn: Robert D. Raicht, Esq., Elderkin & Pirnie, P.L.C., 115 First Avenue, P.O. Box 1968, Cedar Rapids, IA 52402, attn: Dan Childers, Esq. so as to be received no later than March 18, 2009 at 4:00 p.m. Central Time.

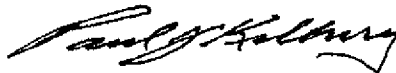
**Bid Procedures**

6. The Bid Procedures, as attached hereto and incorporated herein by reference, are hereby approved.

7. The Bid Procedures are reasonable and appropriate and represent the best method for maximizing the value of the Assets.

8. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the implementation of this Bid Procedures Order.

Dated and Entered: February 27, 2009



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Paul J. Kilburg, Bankruptcy Judge  
Northern District of Iowa

Order Prepared and Submitted by:  
Dan Childers LI0007535  
Eiderkin & Pirnie, P.L.C.  
115 First Avenue S.E., P.O. Box 1968  
Cedar Rapids, IA 52406-1968

**EXHIBIT A**  
**BID PROCEDURES**

- a. **Bid Deadline.** All bids must be submitted to the Trustee (i) at the offices of Triax Capital Advisors, 75 Rockefeller Plaza, 16<sup>th</sup> Floor, NY, NY 10020 and (ii) by email at [jsarachek@trixadvisors.com](mailto:jsarachek@trixadvisors.com) or facsimile at 646-861-4950, and a hard copy to Trustee's counsel, Halperin Battaglia Raicht, LLP, 555 Madison Avenue, 9<sup>th</sup> Floor, New York, New York 10022, Attn: Robert D. Raicht, Esq., by no later than **March 18, 2009 at 3:00 p.m. Central Time** (the "**Bid Deadline**").
- b. To the extent any proposed bidder wishes to undertake any due diligence with respect to the Assets, such proposed bidder must execute a non-disclosure agreement (to the extent such an agreement has not been previously executed and delivered by such proposed bidder) in form and substance acceptable to the Trustee. The Trustee shall make such agreements regarding liability waivers as he deems appropriate for any persons appearing on site for inspections or due diligence. All due diligence must be undertaken and completed prior to the Bid Deadline.
- c. **Qualified Bid.** Only bids that satisfy the following qualifications will be considered a "**Qualified Bid**" by the Trustee:
  - i. The bid must be **received** by the Trustee on or before the Bid Deadline in the manner set forth herein
  - ii. The bid must be accompanied by a down payment deposit in immediately available funds of no less than ten (10%) percent of the proposed purchase price and by a duly executed sale agreement, substantially similar to the form of APA to be prepared by the Trustee and filed with the Bankruptcy Court by March 4, 2009 (copies of the form APA available upon request of Trustee's counsel) and marked to reflect variations thereto, but in no event shall such sale agreement be less favorable to the estate than the terms of the APA. The deposit will be non-refundable if the bidder is selected as the highest or otherwise best bid (the "**Successful Bidder**") and fails to consummate the purchase (other than as a result of a breach by the Trustee or the failure of the Bankruptcy Court to approve the sale through no fault of the Successful Bidder). The deposit will be refundable if the bidder is not selected as the Successful Bidder.

- iii. A bidder must also identify which contracts and/or leases it seeks to have the Trustee assume and assign to such bidder. The bidder shall be responsible for the payment of all cure costs associated with such contracts and/or leases pursuant to section 365 of the Bankruptcy Code.
- iv. Without limiting the generality of the foregoing, such bid shall be for the Assets and any liabilities to be assumed on an as-is, where-is basis and shall not include any due diligence, financing or other contingency. Further, the Trustee shall not make any representations or warranties with regard to any events or conditions that existed prior to the Trustee's appointment.
- v. Simultaneously with the delivery of the down payment deposit and an executed asset purchase agreement, an entity submitting a bid shall deliver financial information to Trustee's counsel evidencing that such party has the financial wherewithal to consummate the proposed transaction on the terms proposed and to demonstrate to the counterparties under the contracts and/or leases to be assumed that the bidder can provide adequate assurance of the bidder's ability to perform in the future under such contracts and/or leases. Such financial information may include current audited or verified financial statements and/or a letter from a depository institution indicating the ability to close on a proposed transaction. In the event the financial information pertains to the parent corporation of an acquisition affiliate, the bid of the affiliate shall be guaranteed by the parent.
- vi. The entity submitting a bid shall also provide evidence or affirm under oath that all necessary approvals have been obtained authorizing the submission of the bid by such entity.
- vii. An entity submitting a bid shall complete a disclosure statement, which shall be sworn to under the penalty of perjury under pursuant to 28 U.S.C. §1746 setting forth any and all connections or affiliations of the proposed bidder, whether direct or indirect, express, implied, contingent or unmaturred, with any creditors or other parties-in-interest in the case, including, without

limitation, connections or affiliations with the Related Parties<sup>2</sup>, including intention to employ or enter into consulting agreements with such parties post sale. The disclosure statement shall also (A) indicate whether and to what extent any Related Party will have an interest, directly or indirectly, in the Assets and/or the acquiror of the Assets following the consummation of any proposed sale transaction with the Trustee; (B) the bidder's post-sale intention with respect to operation of the Postville, Iowa plant, and the continuation of the Debtor's intellectual property, including, but not limited to trade name and all trademarks; (C) disclosure of any immigration compliance program that the bidder has in place or that it intends to implement post sale; and (D) a statement affirming that the bidder has not engaged in any improper conduct with actual or potential bidders for the Debtor's Assets.

- viii. Only those bidders having submitted Qualified Bids (each a "Qualified Bidder") will be permitted to participate in the Auction. The Trustee, after consultation with First Bank Business Capital, Inc., f/k/a FB Commercial Finance, Inc., MLIC Asset Holdings and the Official Committee of Unsecured Creditors (the "Committee"), will promptly notify each bidder after the Bid Deadline whether it is a Qualified Bidder.

d. Auction Procedures and Bidding Increments.

- i. The highest Qualified Bid shall be announced at the Auction as the opening bid (the "Initial Bid").
- ii. In the event a bidder is the second best bidder, its bid shall be irrevocable and such bidder shall remain ready, willing and able to purchase the Assets through the closing of the transaction with the successful bidder.
- iii. At the Auction (A) all bids shall be made and received in one room, on an open basis, and all other bidders shall be entitled to be present for all bidding with the

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<sup>2</sup> Related Parties include: A.A. Rubashkin & Sons, Local Pride, LLC, Best Value Distributors, Inc., Best Value Food Products, LLC, Cottonballs, LLC, Lagoon Technology LLC, Kosher Community Grocery, Inc., Nevel Properties Corp., Amereeka Properties, LLC, The Torah Educational Foundation of Northeast Iowa, Gemach Mamash Now Corp. and members of the Rubashkin family.



understanding that the true identity of each bidder shall be fully disclosed to all other bidders and that all material terms of each bid will be fully disclosed to all other bidders throughout the entire Auction; (B) the opening bid at the Auction shall not be less than the Initial Bid; (C) all offers subsequent to the opening bid at the Auction must exceed the prior offer by not less than \$100,000; and (D) bidding at the Auction will continue until such time as no further bids are made within the time limit announced by the Trustee.

- iv. The Auction will be conducted openly and each Qualified Bidder will be informed of the terms of the previous bid.
- v. Upon conclusion of the Auction, the Trustee, upon consultation with the Committee, MLIC and First Bank, shall determine the Successful Bidder, and such shall be submitted for approval by the Bankruptcy Court. Bids made after the Auction has closed will not be considered.
- vi. The Successful Bidder shall have the burden of establishing by competent evidence (A) that it qualifies for section 363(m) protections and (B) adequate assurance of future performance of assigned contracts and/or leases.
- vii. A separate claim procedure and hearing shall be established with respect to the fixing of cure claims associated with those Executory Contracts identified by the Successful Bidder and to be assumed and assigned to it pursuant to the sale.
- viii. The Trustee reserves the right to establish such other reasonable rules and procedures for the conduct of the Auction, provided that such rules and procedures are publicly announced at the Auction.

**EXHIBIT B**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF IOWA**

IN RE: )  
 ) CHAPTER 11  
AGRIPROCESSORS, INC. ) BANKRUPTCY NO. 08-2751  
 )  
Debtor )

**NOTICE OF AUCTION SALE AND HEARING ON  
CONSIDERATION OF APPROVAL OF AUCTION SALE  
OF ASSETS FREE AND CLEAR OF ALL LIENS AND  
ENCUMBRANCES OFFERS  
PURSUANT TO SECTION 363(b) OF THE BANKRUPTCY CODE**

**TO ALL CREDITORS OF AGRIPROCESSORS, INC. AND OTHER NOTICE  
PARTIES:**

**PLEASE TAKE NOTICE that:**

On November 4, 2008 (the "Petition Date"), Agriprocessors, Inc. (the "Debtor") filed a voluntary petition for relief under the Bankruptcy Code. By Order dated November 20, 2008, the appointment of Joseph E. Sarachek (the "Trustee"), as Trustee was approved by the Bankruptcy Court.

**PLEASE TAKE FURTHER NOTICE** that the Trustee has filed a motion (the "Motion") seeking the establishment of procedures for the sale at auction of substantially all of the Debtor's assets and such other non-debtor assets as the Trustee may be authorized to convey (the "Assets"), free and clear of all liens, claims and encumbrances, subject to higher or better offers (the "Sale").

**PLEASE TAKE FURTHER NOTICE** that in connection with the Sale, the Bankruptcy Court has ordered that: (a) an Auction shall be held on **March 23, 2009 at 1:30 p.m. Central Time** in the courtroom of the Honorable Paul J. Kilburg, United States Bankruptcy Judge, United States Bankruptcy Court, Suite 800, 425 Second Street S.E., Cedar Rapids, Iowa 52401 to consider any offers submitted in accordance with the bid procedures annexed hereto as Exhibit "1," as may be amended (the "Bid Procedures"); and (b) a hearing shall be held on **March 24, 2009 at 9:30 a.m. Central Time** before the Honorable Paul J. Kilburg, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Northern District of Iowa, at 425 Second Street, 8<sup>th</sup> Floor, Cedar Rapids, Iowa 52401, to consider approval of the sale of the Assets, as defined in the Bidding Procedures.

**PLEASE TAKE FURTHER NOTICE**, that the Trustee has requested that any of the hearings scheduled by the Bankruptcy Court may be adjourned from time to time without further notice to creditors or other parties of interest, other than by announcement in Bankruptcy Court of such adjournment on the date of the hearing.

**PLEASE TAKE FURTHER NOTICE**, that copies of the bid procedures as made part of the Order approving the Bid Procedures are available for inspection at the Bankruptcy Court's website ([www.ianb.uscourts.gov](http://www.ianb.uscourts.gov)); or during regular business hours at the office of the Clerk of the United States Bankruptcy Court for the Northern District of Iowa, Suite 800 425 Second Street S.E., Cedar Rapids, Iowa 52401-1816 or you may request a copy by contacting Halperin Battaglia Raicht, LLP, 555 Madison Avenue, 9<sup>th</sup> Floor, New York, New York 10022, Attn: Robert D. Raicht, Esq., telephone number (212) 765-9100 or [rraicht@halperinlaw.net](mailto:rraicht@halperinlaw.net).

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, to the Sale shall be filed electronically with the Clerk of the Bankruptcy Court and served upon Halperin Battaglia Raicht, LLP, counsel to the Trustee, 555 Madison Avenue, 9th Floor, New York, New York 10022, Attn: Robert D. Raicht, Esq., and Elderkin & Pirnie, P.L.C., 115 First Avenue, P.O. Box 1968, Cedar Rapids, IA 52402, attn: Dan Childers, Esq. so as to be received no later than **March 18, 2009 at 4:00 p.m. Central Time.**

Dated: February \_\_, 2009

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***Co- Counsel to the Chapter 11 Trustee***

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Mail - Douglas L. Furth Esq. Page 1 of 1

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