

WEST COUNTY POWER PARTNERS, LLC

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Overland Park, Kansas 66211
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Florida Power & Light Company
West County Energy Center – Unit 1
Permit No. – PSD-FL-354
DEP File No. – 0990646-001-AC

RECEIVED

NOV 18 2009

WCPP Project 144553
WCPP Files 14.0100/32.0440
WCPP-2009-TP-0574
November 17, 2009

BUREAU OF AIR REGULATION E-mail, Express Mail

Ms. Elizabeth Walker
Florida Department of Environmental Protection
Division of Air Resource Management
Bureau of Air Regulation, Bureau Chief
2600 Blair Stone Road, MS 5500
Tallahassee, FL 32399-2400

Subject: **Emissions Performance Test Reports – West County Energy Center Unit 1**

Dear Ms. Walker:

On behalf of Florida Power & Light Company (FPL) and its Designated Representative, Sheila M. Wilkinson, the West County Power Partners, LLC (WCPP), EPC Contractor for construction of the new combined cycle generating Unit 1 at the FPL West County Energy Center, is submitting the Emissions Performance Test Reports per the requirements of 40 CFR Part 60 and West County's Air Permit, Records and Reports, #31 (Permit No. PSD-FL-354).

If you have any questions about this notification, please contact Terry Apple at (913) 458-7220.

Very truly yours,

WEST COUNTY POWER PARTNERS, LLC


Chet Lloyd
Project Executive

WS:hs

enclosure: 1 hard copy, 1 CD

cc: w/enclosures as indicated:
Dave McNeal, USEPA Air, Pesticides and Toxics Management, w/1 hard copy, 1 CD
Art Diem, USEPA Clean Air Markets Division
Errin Pichard, FDEP Air Resource Management
Lee Hoefert, FDEP Southeast District
Tim Gray, FDEP Southeast District
Tom Cascio, FDEP Bureau of Air Regulation
Mike Halpin, FDEP Siting Coordination Office
K. M. Davis, FPL ACG/GO
E.N. Scoville II, FPL Director Construction
Sheila M. Wilkinson, FPL Designated Rep

Laxmana Tallam, PBC Health Department, w/1 CD
Michael Helmke, PBC Health Department, w/1 hard copy, 1 CD
Jim Stormer, PBC Health Department
Tom Tittle, PBC Health Department
E.N. Scoville II, FPL Director Construction
Tom Young, FPL Construction Project General Manager
Jan Kirwan, FPL Environmental Specialist, w/1 hard copy, 5 CD's
Dave Fawcett, FPL Environmental Specialist, w/1 hard copy, 1 CD
Carmine Priore, FPL Plant General Manager
Chet Lloyd, WCPP Project Executive
John Tidwell, WCPP Senior Project Manger
Greg Hines, WCPP Site Environmental Manager
Terry Apple, WCPP Project Manager/ Project File, w/1 CD
William Stevenson, WCPP Environmental Specialist, w/1 CD

Mark J. Bernet
Allison J. Brandt
Philip K. Clarke
Larry M. Foyle
Scott A. Frick
Brad W. Hissing
Clay A. Holsinger
Gail Golman Holtzman
Michael Kass
Zachary A. Liszt
Nicole M. Mariani
Richard S. McIver
Jeffrey J. Mouch

**KASS, SHULER, SOLOMON, SPECTOR
FOYLE & SINGER, P.A.**

Attorneys at Law

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Joan W. Wadler

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November 24, 2009

Re: Assignment for the Benefit of Creditors of GAE Plant City, LLC

Dear Creditors and Parties in Interest

We are starting to wind down our Assignment and we have several matters set for hearing on December 14, 2009 at 9:15 a.m.

The documents contained in this mailing to each of you provide the following type of information:

1. The Assignee's most recent Quarterly Installment of Information provided to the Circuit Court. This is detailed information concerning events and progress concerning same at the site.

2. Motions for Sale of the Major assets in the case. Under the applicable State Law in chapter 727 of Florida Statutes, you are entitled to receive 20 days notice of any sale of the major assets of the estate. We have previously provided you with information concerning our intention to sell the assets and the manner and method of the proposed sales. The Court has previously approved those proposals. We now have Contracts or believe that we will have contracts for the significant remaining assets in the case. We wish to preserve the available hearing time on December 14, 2009 and therefore we are proceeding with the anticipated matters listed in sub paragraphs a, b and c below. Copies of the Motions are enclosed*.

* If you request a copy of the Attached Contracts, then please email me and I will forward same to you. **If you refer to paragraph 6** you will understand that despite every effort to give everyone notice and despite every effort to conserve expenses, the cost of Notice is substantial and will likely not produce any material benefit to any of the Creditors beyond the secured creditor (Wells Fargo) in this case. Wells Fargo will in the final analysis suffer losses which exceed the combined losses to all other creditors combined by several fold.

a. Real Property -- We have a tentative contract with K & K Pipe and we are trying to keep on track and meet a deadline concerning the sale. This sale will be for approximately \$2,000,000 to \$2.2 million and involves some contract adjustments that are still in the works as this is being prepared.

b. Sale of the 3000 lb Press to KeyMark -- This sale is for \$332,500

c. Sale of the remaining Presses on site to RL Best -- This sale is for \$75,000

3. Notice of Hearing re the December 14, 2009 hearing at 9:15a.m. concerning the above matters.

4. Although the materials are not in this mail out, Assignee recently had a hearing in which the Assignee asked for permission to Subpoena documents from third parties in Illinois. The Process involves obtaining a Commission in Florida which is then honored and enforced through the State Court in Illinois. These documents were requested by informal means which have been ignored and concern matters pertaining to the Assets and Liabilities of GAE Plant City, LLC that were not previously made available to the Assignee at the time of the initial Assignment for the Benefit of Creditors.

5. Overview and Analysis: At present, the Assignee believes that once all of the assets that are available have been liquidated, there will be a substantial short fall to the Secured Creditor Wells Fargo Business Credit. This short fall will exceed several million dollars. As a result, the estate of the Assignee is administratively insolvent and there will be no funds from which to pay the costs of the administration of this estate. These costs have been substantial due to issues which were not known to the Assignee involving on site remediation of environmental issues. The substantial costs coupled with a very soft market for real estate and machinery and equipment have resulted in perfect storm in this case for returns substantially below forecasts and market analysis.

6. What all of the above means for the creditors at large, is that even if additional assets can be recovered, those recoveries, to the extent not subject to the lien rights of Wells Fargo, would first be used to pay Administrative Expenses of this Estate and it is unlikely that any funds would be available to repay any creditors claims.

If you have any specific questions that concern any of the above items, or if you have a question that is different you may contact me by email at LFoyle@KassLaw.com and I will make every effort to respond.

Sincerely,

A handwritten signature in black ink that reads "Larry Foyle". The signature is written in a cursive style with a large, stylized initial "L".

Larry Foyle

813 229 0900 ext 1353

IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT

In re

Case No. 08-CA-24549

GAE PLANT CITY LLC

Assignor
to

THOMAS HAYS, III
Assignee
_____ /

**NOTICE OF HEARING ON MOTION OF ASSIGNEE FOR ORDER
AUTHORIZING MOTIONS TO APPROVE SALES**

Notice is hereby given that Thomas Hays, III, Assignee will call up for hearing his Motions of Assignee for Order Authorizing Motions to Approve Sales, to place on the Calendar for the following date and time, and proceedings are to cover the below listed motions:

1. Motion to Sell Free and Clear – K & K Pipe –re: Real Estate and Improvements
2. Motion to Sell Free and Clear – Keymark – re: 3000lb. UBE Press
3. Motion to Sell Free and Clear – RL Best – re: Miscellaneous Press


December 14, 2009 at 9:15 a.m. (time allotted - 15 mins.)

The hearing shall take place before Circuit Judge, Martha J. Cook, assigned to the case at the Hillsborough County Courthouse (George Edgecomb Building) 800 E. Twiggs Street, Tampa, FL 33602, 5th Floor.

The scope and nature of the hearing is designed to seek the Court's approval to enter Orders Authorizing the Assignee's Motions to Approve Sales, as stated above.

Parties in interest may attend and shall govern themselves accordingly.

Respectfully submitted,


Larry M. Foyle (FL Bar. No. 307343)
KASS, SHULER, SOLOMON, SPECTOR,
FOYLE, & SINGER, P. A.
P.O. Box 800
Tampa, FL 33601
(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, Assignee

Certificate of Service


I Hereby Certify that a true copy of this Notice has been provided by Ordinary US Mail on the 24th day of November, 2009 to each of the parties listed on Schedule A (the creditors list) previously attached to the Assignment Document which was filed with this Court on October 20, 2008. In addition, to each of the Parties listed in the certificate of service of the Motions filed with the Court. In addition, the parties listed below have been served via certified mail, return receipt requested.

Lienholders served via certified mail are:

Plibrico Company, LLC, 1010 North Hooker St., Chicago, IL 60622

Golden Aluminum Extrusion, LLC, 1405 E. 14th St., Fort Lupton, Colorado 80621

Prime Material Sales, Inc., 1317 Avenue S.E., Winter Haven, Florida 33880


Larry M. Foyle

IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT

In re

Case No. 08-CA-24549

GAE PLANT CITY LLC
Assignor

RECEIVED

To

THOMAS D. HAYS, III
Assignee

SEP 25 2009

CLERK OF CIRCUIT COURT
HILLSBOROUGH COUNTY, FL

ASSIGNEE'S THIRD QUARTERLY REPORT TO THE COURT AND CREDITORS

Thomas D. Hays, III, Assignee provides his Third Quarterly Report covering events of the 2nd Quarter of Calendar year 2009. Some events have been superseded by events in July and August 2009, but will be dealt with in the Fourth Quarterly Report to be filed in November 2009.

Summary of Anticipated Results

Due to the severe stress in the economy and especially in GAE Plant City, LLC's (the "Company" or "GAE") primary housing market as well as the poor condition of the company and records when Assignee assumed responsibilities, there will be a substantial shortfall to the secured creditor and no distribution to unsecured creditors.

The loan balance of the secured creditor at the end of June 2009 is \$10.7MM. At the end of June 2009, the only remaining assets of GAE left to liquidate amount to less than \$3.0MM. Those remaining assets are the PP&E composed of the facility and the 4 large extrusion presses- the sale of this remaining PP&E is expected to yield about \$2 to \$2.5MM, and the remaining AR which is expected to yield about \$400K.

Brief Background History:

GAE was an operating Aluminum Extrusion Plant and Cast House facility from its initial corporate formation on October 1, 2007 via a purchase from Alcoa until late September 2008. However, GAE was operating at a loss and negative cash flow since its formation. GAE shut down its operations completely on 10/3/08 with the last regular production run of any sort on 9/10/08. Subsequently, the single Secured Creditor, Wells Fargo Business Credit ("WF"), made a decision to force the issue to have GAE seek some sort of controlled liquidation. At the direction of Wells Fargo, NachmanHaysBrownstein, Inc ("NHB") an experienced turnaround management firm began discussing in early October 2008 with GAE Plant City's Board concerning how best to maximize the potential recovery for all creditors. There were a very limited

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor
to

THOMAS D. HAYS, III,
Assignee.

ASSIGNEE'S MOTION FOR ORDER

(I) APPROVING ASSET PURCHASE AGREEMENT; (II) AUTHORIZING SALE OF 1250 TON WATSON STILLMAN PRESS LINE; 1650 TON FARREL PRESS; 2000 TON FARREL PRESS LINE; AS WELL AS ADDITIONAL EQUIPMENT WHICH IS IDENTIFIED ON EXHIBIT A TO THE ASSET PURCHASE AGREEMENT, AND (III) GRANTING RELATED RELIEF

Thomas D. Hays, III, Assignee ("Assignee") moves the Court for an order (a) approving the form of Asset Purchase Agreement between the Assignee and **R.L. BEST INTERNATIONAL, INC** ("Purchaser"), (b) authorizing the sale of the Equipment as described generally below and in particular in Exhibit A to the Asset Purchase Agreement, free and clear of all liens, claims interests and encumbrances, and (c) granting requested relief (the "Motion"). In support of the Motion, the Assignee states:

1. The scope and nature of the hearing (15 minutes) is designed to:

(a) request approval of the proposed sale of the following:

- i. 1250 ton Watson Stillman Press line;
- ii. 1650 ton Farrel Press;
- iii. 2000 ton Farrel Press line

as well as additional equipment which is identified on Exhibit A to the Asset Purchase Agreement (collectively, the "Assets")¹ free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances") to the Purchaser, whose mailing address is 1775 E. Lake Mary Boulevard, Sanford, FL 32773.

(b) authorize the Assignee to undertake the transactions contemplated by the Asset Purchase Agreement (as defined below),

(c) permit the Assignee to pay off the Taxes assessed or assessable against the Assets, and

(d) thereafter remit the net proceeds to Wells Fargo Business Credit.

¹ . The Assets are more particularly described and consist of all the property listed on Exhibit A to the Asset Purchase Agreement.

2. The Assignee intends to comply with all of the requirements of applicable law under F.S. 727.111(4) concerning the sale of such Assets free and clear of all Encumbrances. The Assignee has asked for this relief to be able to consummate a sale and convey good title to all or any assets that are being sold to the Purchaser, outside of the ordinary course of business.

3. Under Florida Statutes Ch. 727, F.S., the Assignee has the right to sign as "attorney in fact" for GAE Plant City, LLC for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purpose of the assignment." However, before being able to convey good title to assets that are sold, Court approval under F.S. section 727.111(4) is necessary.

4. As a result, Assignee requests the following specific authority in order to conclude the business of the Assignee, including without limitation:

a. Approval of the Asset Purchase Agreement dated October 14, 2009 between the Assignee and Purchaser (the "Asset Purchase Agreement") and authority to undertake the transactions contemplated thereby;

b. Authority to sell the Assets to the Purchaser who, pursuant to the terms of the Asset Purchase Agreement, submitted the highest and best offer for the Assets;

c. Authority to sign on behalf of the Assignor as attorney in fact (and not individually) any documentation required pursuant to the Asset Purchase Agreement or applicable law, including in connection with the issuance of any permits that are necessary to convey title to the Assets or to remove, or permit the removal of, the Assets from the Property (as defined in the Asset Purchase Agreement);

d. Pursuant to Florida Statutes section 727.109(7), 727.111(4) and 727.114, authority to sell the Assets to the Purchaser free and clear of all Encumbrances, with all such Encumbrances to attach to the proceeds of the sale. The purchase price of \$75,000 will not be sufficient to pay both the unpaid personal property taxes on these assets and the First Secured Party on the Property. As such, those parties who may assert junior liens on the Assets, including those who have recorded judgment liens and may have recorded Judgment Lien Certificates will not be paid from the proceeds of the sale, for those liens are *de facto* unsecured claims in accordance with Florida Law.

5. Florida Statutes section 727.109(7) provides in pertinent part:

"(7) Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval

of a proposed sale of assets of the estate other than in the ordinary course of business, or the compromise or settlement of a controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion.”

6. Florida Statutes section 727.111(4) provides, in pertinent part:

“(4) The assignee shall give the assignor and all creditors not less than 20 days' notice by mail of a proposed sale of assets of the estate other than in the ordinary course of business,”

7. Florida Statutes section 727.114 provides, in pertinent part:

727.114(1)(a) Priority of claims

“ . . . **Creditors with liens on assets of the estate**, which liens are duly perfected pursuant to applicable law, shall receive the proceeds from the disposition of their collateral, less the reasonable, necessary expenses of preserving or disposing of such collateral to the extent of any benefit to such creditors. **If and to the extent that such proceeds are less than the amount of a creditor's claim** or a creditor's lien is avoided pursuant to s. 727.109(8)(c) , **such a creditor shall be deemed to be an unsecured creditor for such deficiency** pursuant to paragraph (f). “

8. As a result, Assignee represents that the ad valorem taxes will be paid. The first and paramount lien holder, Wells Fargo Business Credit will not be paid in full, but consents to the sale to the Purchaser. The other creditors identified below will not be paid and do not consent, but under the statute are deemed to hold no further claim against the Assets. The Assignee undertook an extensive marketing of the Assets. The Assets were subjected to an auction process with significant advertising and the Purchaser submitted the highest and best offer for the Assets. Accordingly, title to the Assets shall be conveyed to the Purchaser free and clear of all Encumbrances, including the following:

i. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida.

ii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida.

iii. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

9. Pursuant to Florida Statute section 727.109(8)(c) the creditors with junior liens are deemed *de facto* unsecured creditors and would only share *pro rata* in the distribution of any remaining proceeds after all Encumbrances.

10. The Assets are presently maintained or installed inside one of the buildings situate on the real property at the GAE Plant City, LLC location: 1650 Alumax Circle, Plant City, Hillsborough County, Florida. The Assets will have to be dismantled and removed in a coordinated process that is memorialized in the Asset Purchase Agreement.

11. Wells Fargo Business Credit consents to the sale to the Purchaser.

12. Assignee undertook extensive efforts, including hiring a broker and an auctioneer to market the Assets. The Purchaser's offer evidenced by the Asset Purchase Agreement represents the highest and best offer for the Assets.

13. The market continues to be extremely soft and Assignee believes this offer is bona fide and if approved is likely to close. As of the date hereof, and as provided in Section 1.2 of the Asset Purchase Agreement, Purchaser has delivered to the Assignee deposits totaling \$75,000. The balance of the Purchase Price is zero and no additional sums shall be required to be delivered to the Assignee prior to any ultimate removal of the Assets and all other conditions of the Asset Purchase Agreement have been satisfied or waived.

14. As set forth in the Asset Purchase Agreement, the Assignee is conveying good and marketable title to the Assets, but in all other respects is selling in "As Is" and "Where Is" condition with all faults. There are no warranties of any kind, express or implied save the warranty of title. The order approving this Motion and authorizing the sale (the "Sale Order") shall include a finding that the Assignee holds good and marketable title to the Assets

15. This Court in its previous Order authorized the procedures that Assignee engaged in to identify a purchaser and provided that if a sale could be made that the Assignee come before the Court and seek approval. A copy of the Asset Purchase Agreement is attached as Exhibit A to this Motion.

16. Post closing Assignee will have continued access to the property. As such, Assignee will continue to maintain the Bond (recently renewed) and will continue to keep insurance in place.

17. **As set forth in the attached Asset Purchase Agreement, the Purchaser's obligation to perform is conditioned upon the entry of the Sale Order (in form and content acceptable to Purchaser) which, *inter alia*:**

(a) approves the sale of the Assets to Purchaser on the terms and conditions set forth in the Asset Purchase Agreement and authorizes Seller to proceed with the transaction,

(b) includes a specific finding that Purchaser is a good faith purchaser of the Assets,

(c) provides that Purchaser is not a successor in interest to Seller and that Purchaser is not continuing Seller's business operations;

(d) states that the sale of the Assets to Purchaser shall be free and clear of all liens, claims, interests and encumbrances whatsoever; and

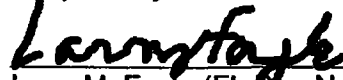
(e) states that Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters and that by removing the Assets from the Property, Purchaser shall not be deemed to be an owner of the Property for any purpose whatsoever.

18. Assignee shall serve the Sale Motion (as well notice of the hearing thereon) on all creditors of GAE, including any entity that asserts an interest in or claim against the Assets. Following the filing of the Sale Motion, Seller shall use reasonable efforts to obtain entry of the Sale Order.

WHEREFORE, Thomas D. Hays, III prays that the Court enter an order, in substantially the same form as is attached hereto as Exhibit B, approving the Asset Purchase Agreement, authorizing the Assignee to undertake the transactions contemplated thereby and perform the obligations there under, finding that the Purchaser is a purchaser in good faith and not a successor to GAE or the Assignee, and for all other relief as is just.

Parties in interest may attend and shall govern themselves accordingly.

Respectfully submitted,



Larry M. Foyle (FL Bar. No. 307343)
KASS, SHULER, SOLOMON, SPECTOR,
FOYLE, & SINGER, P. A.
P.O. Box 800
Tampa, FL 33601
(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, III,
Assignee

Certificate of Service

I Hereby Certify that a true copy of this Motion has been provided by Ordinary US Mail on the _____ day of November 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified as In paragraphs 8(i), (ii) and (iii) above.


Larry M. Foyle (FL Bar. No. 307343)

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor

to

THOMAS D. HAYS, III,
Assignee.

**ASSIGNEE'S MOTION FOR ORDER
(I) APPROVING ASSET PURCHASE AGREEMENT; (II) AUTHORIZING SALE
OF ONE (1) 3,000 TON UBE TEN INCH EXTRUDER PRESS AND RELATED
EQUIPMENT, AND (III) GRANTING RELATED RELIEF**

Thomas D. Hays, III, Assignee ("Assignee") moves the Court for an order (a) approving the form of Asset Purchase Agreement between the Assignee and Keymark of Lakeland, LLC ("Purchaser"), (b) authorizing the sale of the 3,000 Ton Ube Ten Inch Extruder Press and Related Equipment, free and clear of all liens, claims interests and encumbrances, and (c) granting requested relief (the "Motion"). In support of the Motion, the Assignee states:

1. The scope and nature of the hearing (15 minutes) is designed to (a) request approval of the proposed sale of the 10" Press and Related Equipment (collectively, the "Assets")¹ free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances") to the Purchaser, whose mailing address is 2540 Knights Station Road, Lakeland, FL 33810, (b) authorize the Assignee to undertake the transactions contemplated by the Asset Purchase Agreement (as defined below), (c) permit the Assignee to pay off the Taxes assessed or assessable against the Assets, and (c) thereafter remit the net proceeds to Wells Fargo Business Credit.

2. The Assignee intends to comply with all of the requirements of applicable law under F.S. 727.111(4) concerning the sale of such Assets free and clear of all Encumbrances. The Assignee has asked for this relief to be able to consummate a sale and convey good title to all or any assets that are being sold to the Purchaser, outside of the ordinary course of business.

3. Under Florida Statutes Ch. 727, F.S., the Assignee has the right to sign as "attorney in fact" for GAE Plant City, LLC for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be

¹ . The Assets are more particularly described and consist of all the property listed on Exhibit A to the Asset Purchase Agreement.

necessary to do so, to carry out the purpose of the assignment.” However, before being able to convey good title to assets that are sold, Court approval under F.S. section 727.111(4) is necessary.

4. As a result, Assignee requests the following specific authority in order to conclude the business of the Assignee, including without limitation:

a. Approval of the Asset Purchase Agreement dated October 14, 2009 between the Assignee and Purchaser (the “Asset Purchase Agreement”) and authority to undertake the transactions contemplated thereby;

b. Authority to sell the Assets to the Purchaser who, pursuant to the terms of the Asset Purchase Agreement, submitted the highest and best offer for the Assets;

c. Authority to sign on behalf of the Assignor as attorney in fact (and not individually) any documentation required pursuant to the Asset Purchase Agreement or applicable law, including in connection with the issuance of any permits that are necessary to convey title to the Assets or to remove, or permit the removal of, the Assets from the Property (as defined in the Asset Purchase Agreement);

d. Pursuant to Florida Statutes section 727.109(7), 727.111(4) and 727.114, authority to sell the Assets to the Purchaser free and clear of all Encumbrances, with all such Encumbrances to attach to the proceeds of the sale. The net purchase price of \$332,500 (\$350,000 less purchase discount of \$17,500) will not be sufficient to pay both the unpaid personal property taxes on these assets and the First Secured Party on the Property. As such, those parties who may assert junior liens on the Assets, including those who have recorded judgment liens and may have recorded Judgment Lien Certificates will not be paid from the proceeds of the sale, for those liens are *de facto* unsecured claims in accordance with Florida Law.

5. Florida Statutes section 727.109(7) provides in pertinent part:

“(7) Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval of a proposed sale of assets of the estate other than in the ordinary course of business, or the compromise or settlement of a controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion.”

6. Florida Statutes section 727.111(4) provides, in pertinent part:

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727.114(1)(a) Priority of claims

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8. As a result, Assignee represents that the ad valorem taxes will be paid. The first and paramount lien holder, Wells Fargo Business Credit will not be paid in full, but consents to the sale to the Purchaser. The other creditors identified below will not be paid and do not consent, but under the statute are deemed to hold no further claim against the Assets. The Assignee undertook an extensive marketing of the Assets. The Assets were subjected to an auction process with significant advertising and the Purchaser submitted the highest and best offer for the Assets. Accordingly, title to the Assets shall be conveyed to the Purchaser free and clear of all Encumbrances, including the following:

i. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida.

ii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida.

iii. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

9. Pursuant to Florida Statute section 727.109(8)(c) the creditors with junior liens are deemed *de facto* unsecured creditors and would only share *pro rata* in the distribution of any remaining proceeds after all Encumbrances.

10. The Assets are presently maintained or installed inside one of the buildings situate on the real property at the GAE Plant City, LLC location: 1650 Alumax Circle, Plant City, Hillsborough County, Florida. The Assets will have to

be dismantled and removed in a coordinated process that is memorialized in the Asset Purchase Agreement.

11. Wells Fargo Business Credit consents to the sale to the Purchaser.

12. Assignee undertook extensive efforts, including hiring a broker and an auctioneer to market the Assets. The Purchaser's offer evidenced by the Asset Purchase Agreement represents the highest and best offer for the Assets.

13. The market continues to be extremely soft and Assignee believes this offer is bona fide and if approved is likely to close. As of the date hereof, and as provided in Section 1.2 of the Asset Purchase Agreement, Purchaser has delivered to the Assignee deposits totaling \$180,000 deposit. The balance of the Purchase Price shall be delivered to the Assignee such that all funds will be received by Assignee prior to any ultimate removal of the Assets and all other conditions of the Asset Purchase Agreement have been satisfied or waived.

14. As set forth in the Asset Purchase Agreement, the Assignee is conveying good and marketable title to the Assets, but in all other respects is selling in "As Is" and "Where Is" condition with all faults. There are no warranties of any kind, express or implied save the warranty of title. The order approving this Motion and authorizing the sale (the "Sale Order") shall include a finding that the Assignee holds good and marketable title to the Assets.

15. This Court in its previous Order authorized the procedures that Assignee engaged in to identify a purchaser and provided that if a sale could be made that the Assignee come before the Court and seek approval. A copy of the Asset Purchase Agreement is attached as Exhibit A to this Motion.

16. Post closing Assignee will have continued access to the property. As such, Assignee will continue to maintain the Bond (recently renewed) and will continue to keep insurance in place.

17. **As set forth in the attached Asset Purchase Agreement, the Purchaser's obligation to perform is conditioned upon the entry of the Sale Order (in form and content acceptable to Purchaser) which, *inter alia*:**

(a) approves the sale of the Assets to Purchaser on the terms and conditions set forth in the Asset Purchase Agreement and authorizes Seller to proceed with the transaction,

(b) includes a specific finding that Purchaser is a good faith purchaser of the Assets,

(c) provides that Purchaser is not a successor in interest to Seller and that Purchaser is not continuing Seller's business operations;

(d) states that the sale of the Assets to Purchaser shall be free and clear of all liens, claims, interests and encumbrances whatsoever; and

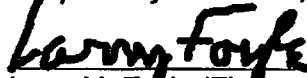
(e) states that Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters and that by removing the Assets from the Property, Purchaser shall not be deemed to be an owner of the Property for any purpose whatsoever.

18. Assignee shall serve the Sale Motion (as well notice of the hearing thereon) on all creditors of GAE, including any entity that asserts an interest in or claim against the Assets. Following the filing of the Sale Motion, Seller shall use reasonable efforts to obtain entry of the Sale Order.

WHEREFORE, Thomas D. Hays, III prays that the Court enter an order, in substantially the same form as is attached hereto as Exhibit B, approving the Asset Purchase Agreement, authorizing the Assignee to undertake the transactions contemplated thereby and perform the obligations there under, finding that the Purchaser is a purchaser in good faith and not a successor to GAE or the Assignee, and for all other relief as is just.

Parties in interest may attend and shall govern themselves accordingly.

Respectfully submitted,



Larry M. Foyle (FL Bar. No. 307343)
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Attorneys for Thomas Hays, III,
Assignee

Certificate of Service

I Hereby Certify that a true copy of this Motion has been provided by Ordinary US Mail on the _____ day of November 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified as In paragraphs 8(i), (ii) and (iii) above.



Larry M. Foyle (FL Bar. No. 307343)

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor

to

THOMAS D. HAYS, III,
Assignee.

ASSIGNEE'S MOTION FOR ORDER

**(I) APPROVING ASSET PURCHASE AGREEMENT WITH K & K PIPE
WHOLESALEERS, INC. ; (II) AUTHORIZING SALE OF REAL ESTATE AND
IMPROVEMENTS THEREON , AND (III) GRANTING RELATED RELIEF**

Thomas D. Hays, III, Assignee ("Assignee") moves the Court for an order (a) approving the form of Asset Purchase Agreement between the Assignee and K & K Pipe Wholesalers, Inc. ("Purchaser"), (b) authorizing the sale of the real property and improvements thereon, free and clear of all liens, claims interests and encumbrances, and (c) granting requested relief (the "Motion"). In support of the Motion, the Assignee states:

1. The scope and nature of the hearing (15 minutes) is designed to (a) request approval of the proposed sale of the real property and improvements thereon (collectively, the "Assets")¹ free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances") to the Purchaser, whose mailing address is P.O. Box 5309, Basking Ridge, New Jersey 07920 (b) authorize the Assignee to undertake the transactions contemplated by the Asset Purchase Agreement (as defined below), (c) permit the Assignee to pay off the Taxes assessed or assessable against the Assets, and (c) thereafter remit the net proceeds to Wells Fargo Business Credit.

2. The Assignee intends to comply with all of the requirements of applicable law under F.S. 727.111(4) concerning the sale of such Assets free and clear of all Encumbrances. The Assignee has asked for this relief to be able to consummate a sale and convey good title to all or any assets that are being sold to the Purchaser, outside of the ordinary course of business.

3. Under Florida Statutes Ch. 727, F.S., the Assignee has the right to sign as "attorney in fact" for GAE Plant City, LLC for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be

¹ . The Assets are more particularly described and consist of all the property listed on Exhibit A to the Asset Purchase Agreement.

necessary to do so, to carry out the purpose of the assignment." However, before being able to convey good title to assets that are sold, Court approval under F.S. section 727.111(4) is necessary.

4. As a result, Assignee requests the following specific authority in order to conclude the business of the Assignee, including without limitation:

a. Approval of the Asset Purchase Agreement and any further amendments* between the Assignee and Purchaser (the "Asset Purchase Agreement") and authority to undertake the transactions contemplated thereby;

b. Authority to sell the Assets to the Purchaser who, pursuant to the terms of the Asset Purchase Agreement, submitted the highest and best offer for the Assets;

c. Authority to sign on behalf of the Assignor as attorney in fact (and not individually) any documentation required pursuant to the Asset Purchase Agreement or applicable law, including in connection with the issuance of any permits that are necessary to convey title to the Assets or to remove, or permit the removal of, the Assets from the Property (as defined in the Asset Purchase Agreement);

d. Pursuant to Florida Statutes section 727.109(7), 727.111(4) and 727.114, authority to sell the Assets to the Purchaser free and clear of all Encumbrances, with all such Encumbrances to attach to the proceeds of the sale. The net purchase price of \$332,500 (\$350,000 less purchase discount of \$17,500) will be sufficient to pay the unpaid ad Valorem real property taxes on these assets, but will not be sufficient to satisfy the amounts owed to the First Secured Party on the Property. As such, those parties who may assert junior liens on the Assets, including those who have recorded judgment liens and may have recorded Judgment Lien Certificates will not be paid from the proceeds of the sale, for those liens are *de facto* unsecured claims in accordance with Florida Law.

5. Florida Statutes section 727.109(7) provides in pertinent part:

"(7) Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval of a proposed sale of assets of the estate other than in the ordinary course of

*Although the APA was negotiated and signed several weeks ago, a dispute erupted in which the Purchaser sought price concessions due to environmental

issues with respect to the real property. The price concession is in final negotiation stage.

business, or the compromise or settlement of a controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion.”

6. Florida Statutes section 727.111(4) provides, in pertinent part:

“(4) The assignee shall give the assignor and all creditors not less than 20 days’ notice by mail of a proposed sale of assets of the estate other than in the ordinary course of business,”

7. Florida Statutes section 727.114 provides, in pertinent part:

727.114(1)(a) Priority of claims

“. . . **Creditors with liens on assets of the estate**, which liens are duly perfected pursuant to applicable law, shall receive the proceeds from the disposition of their collateral, less the reasonable, necessary expenses of preserving or disposing of such collateral to the extent of any benefit to such creditors. **If and to the extent that such proceeds are less than the amount of a creditor’s claim** or a creditor’s lien is avoided pursuant to s. 727.109(8)(c) , **such a creditor shall be deemed to be an unsecured creditor for such deficiency** pursuant to paragraph (f). “

8. As a result, Assignee represents that the ad valorem taxes will be paid. The first and paramount lien holder, Wells Fargo Business Credit will not be paid in full, but consents to the sale to the Purchaser. The other creditors identified below will not be paid and do not consent, but under the statute are deemed to hold no further claim against the Assets. The Assignee undertook an extensive marketing of the Assets. The Assets were subjected to an auction process with significant advertising and the Purchaser submitted the highest and best offer for the Assets. Accordingly, title to the Assets shall be conveyed to the Purchaser free and clear of all Encumbrances, including the following:

i. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida.

ii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida.

iii. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public

Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

9. Pursuant to Florida Statute section 727.109(8)(c) the creditors with junior liens are deemed *de facto* unsecured creditors and would only share *pro rata* in the distribution of any remaining proceeds after all Encumbrances.

10. Wells Fargo Business Credit consents to the sale to the Purchaser.

11. Assignee undertook extensive efforts, including hiring a broker and an auctioneer to market the Assets. The Purchaser's offer evidenced by the Asset Purchase Agreement represents the highest and best offer for the Assets.

12. The market continues to be extremely soft and Assignee believes this offer is bona fide and if approved is likely to close. As of the date hereof, and as provided in Section 1.2 of the Asset Purchase Agreement, Purchaser has delivered to the Assignee a deposit totaling \$100,000. The balance of the Purchase Price shall be delivered to the Assignee at closing and when all other conditions of the Asset Purchase Agreement have been satisfied or waived.

13. As set forth in the Asset Purchase Agreement, the Assignee is conveying good and marketable title to the Assets, but in all other respects is selling in "As Is" and "Where Is" condition with all faults. There are no warranties of any kind, express or implied save the warranty of title. The order approving this Motion and authorizing the sale (the "Sale Order") shall include a finding that the Assignee holds good and marketable title to the Assets

14. This Court in its previous Order authorized the procedures that Assignee engaged in to identify a purchaser and provided that if a sale could be made that the Assignee come before the Court and seek approval. A copy of the Asset Purchase Agreement is attached as Exhibit A to this Motion.

15. Post closing Assignee will have continued access to the property. As such, Assignee will continue to maintain the Bond (recently renewed) and will continue to keep insurance in place until the equipment sold to the purchasers as set forth in the separate motions filed with the court and provided all of the equipment has been completely removed. Assignee expects the removal to be completed on or before December 31, 2009.

16. As set forth in the attached Asset Purchase Agreement, the Purchaser's obligation to perform is conditioned upon the entry of the Sale Order (in form and content acceptable to Purchaser) which, *inter alia*:

(a) approves the sale of the Assets to Purchaser on the terms and conditions set forth in the Asset Purchase Agreement and authorizes Seller to proceed with the transaction,

(b) includes a specific finding that Purchaser is a good faith purchaser of the Assets,

(c) provides that Purchaser is not a successor in interest to Seller and that Purchaser is not continuing Seller's business operations;

(d) states that the sale of the Assets to Purchaser shall be free and clear of all liens, claims, interests and encumbrances whatsoever; and

(e) states that Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters and that by removing the Assets from the Property, Purchaser shall not be deemed to be an owner of the Property for any purpose whatsoever.

17. Assignee shall serve the Sale Motion (as well notice of the hearing thereon) on all creditors of GAE, including any entity that asserts an interest in or claim against the Assets. Following the filing of the Sale Motion, Seller shall use reasonable efforts to obtain entry of the Sale Order.

WHEREFORE, Thomas D. Hays, III prays that the Court enter an order, in substantially the same form as is attached hereto as Exhibit B, approving the Asset Purchase Agreement, authorizing the Assignee to undertake the transactions contemplated thereby and perform the obligations there under, finding that the Purchaser is a purchaser in good faith and not a successor to GAE or the Assignee, and for all other relief as is just.

Parties in interest may attend and shall govern themselves accordingly.

Respectfully submitted,

Larry M. Foyle (FL Bar. No. 307343)
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FOYLE, & SINGER, P. A.
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Tampa, FL 33601
(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, III,
Assignee

Certificate of Service

I Hereby Certify that a true copy of this Motion has been provided by Ordinary US Mail on the _____ day of November 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified as In paragraphs 8(i), (ii) and (iii) above.

Larry M. Foyle (FL Bar. No. 307343)

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor.

to

THOMAS D. HAYS, III,
Assignee.

**ORDER (I) APPROVING ASSET PURCHASE AGREEMENT; (II)
AUTHORIZING SALE OF 1250 ton Watson Stillman Press line; 1650 ton
Farrel Press; 2000 ton Farrel Press line; as well as additional equipment
which is identified on Exhibit A to the Asset Purchase Agreement,
(III) GRANTING RELATED RELIEF**

This cause came on for hearing on _____ upon the
Assignee's Motion For Order which seeks several forms of relief:

(I) Approving Asset Purchase Agreement;

(II) Authorizing Sale of

- i. 1250 ton Watson Stillman Press line;
- ii. 1650 ton Farrel Press;
- iii. 2000 ton Farrel Press line

as well as additional equipment which is identified on Exhibit A to the Asset
Purchase Agreement (collectively, the "Assets")¹; and

(III) Granting Related Relief (the "Motion").

Notice of the Motion of the hearing thereon was provided to all creditors,
each entity that claims an interest in the Assets (as defined in the Motion) and
other parties in interest as certified in the Certificate of Service to the Motion filed
by Thomas D. Hays, III, Assignee. The Motion seeks approval of the Asset
Purchase Agreement annexed to the Motion as Exhibit A, approval of the sale of
the Equipment as more particularly described in the Asset Purchase Agreement
(the "Assets"), free and clear of all liens, claims, interests and encumbrances
(collectively, the "Encumbrances") and approving the Assignee's efforts to wind
up the business affairs of GAE Plant City, LLC.

The Court has reviewed the Motion and the record in this case. The
Record reveals that good and adequate notice of the Motion and of the hearing
have been provided, and that no further or other notice is required under the

¹ . The Assets are more particularly described and consist of all the property listed on Exhibit A to
the Asset Purchase Agreement.

circumstances. No objections to the Motion or to the relief requested therein were filed or served.

The proposed buyer, **R.L. BEST INTERNATIONAL, INC** ("Purchaser"), with a mailing address of 1775 E. Lake Mary Boulevard, Sanford, FL 32773, is not affiliated with Assignee, GAE Plant City, LLC ("GAE") or any of its officers, directors or managers. There are no agreements between the Seller and the Purchaser, except as memorialized in the Asset Purchase Agreement. The record reflects that the Assignee undertook extensive efforts to sell the Assets, including hiring a broker and an auctioneer to market the property. The Purchaser's offer for the Assets is the best *bona fide* offer received by the Assignee. The Assignee conducted an open and competitive sale process for the Assets. The Purchaser's offer for the Assets, memorialized in the Asset Purchase Agreement, represents the highest and best offer received by the Assignee for the Assets. Based on the record before the Court, the Court concludes that the consideration to be paid by the Purchaser constitutes reasonably equivalent value for the Assets and that the Purchaser is a good faith purchaser for value.

The Court is satisfied that the sale proceeds shall first be used to pay off the ad valorem taxes assessed against or on the Assets, and thereafter the net proceeds shall be remitted to Wells Fargo Business Credit.

The Court finds that under Florida Statutes Ch. 727, the Assignee has the right to sign as "attorney in fact" for GAE for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purpose of the assignment."

The Court further finds that pursuant to Florida Statutes sections 727.109(7), 727.111(4) and 727.114, the sale is made and the Assets shall be conveyed to the Purchaser free and clear of Encumbrances, including without limitation, the following:

- i. Any claim or lien of the Hillsborough County Tax Collector for ad valorem or other taxes;
- ii. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida;
- iii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida; and
- iv. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public

Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

Under Florida Statutes section 727.109(7) the Court may:

“Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval of a proposed sale of assets of the estate other than in the ordinary course of business, or the compromise or settlement of a controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion.”

Under Florida Statutes section 727.111(4)

“The assignee shall give the assignor and all creditors not less than 20 days’ notice by mail of a proposed sale of assets of the estate other than in the ordinary course of business,”

Under Florida Statutes section 727.114(1)(a) Priority of claims

“ . . . **Creditors with liens on assets of the estate**, which liens are duly perfected pursuant to applicable law, shall receive the proceeds from the disposition of their collateral, less the reasonable, necessary expenses of preserving or disposing of such collateral to the extent of any benefit to such creditors. **If and to the extent that such proceeds are less than the amount of a creditor’s claim** or a creditor’s lien is avoided pursuant to s. 727.109(8)(c) , **such a creditor shall be deemed to be an unsecured creditor for such deficiency** pursuant to paragraph (f). “

As a result, the Court is satisfied that provided the Assignee pays the taxes and remits the balance of the sales proceeds to the first and paramount lien holder, Wells Fargo Business Credit, that even though other creditors identified below who will not be paid and who do not consent, shall be deemed unsecured creditors under the statute and hold no further claim against the Assets being sold by this Order because the property is being sold free and clear of all Encumbrances.

The Assignee has represented that the Assets are presently installed or located inside one of the buildings situate on the real property at GAE location 1650 Alumax Circle, Plant City, Hillsborough County, Florida. The Assets will have to be dismantled and removed in a coordinated process that has been agreed to by the Assignee and the Purchaser. The Court is further satisfied that Wells Fargo Business Credit Consents to the sale.

The Contract has certain bench marks that the Purchaser has satisfied and represents that it has the wherewithal to perform the balance of the contract price. The Assignee represents that all funds will be received by Assignee prior to any ultimate removal of the Assets and only following execution of all of the closing documents and the satisfaction of all other conditions contained in the Asset Purchase Agreement.

The Court is further satisfied that the Assignee holds, shall convey and by this Order is authorized to convey to the Purchaser, good and marketable title to the Assets free and clear of all Encumbrances. In all other respects the Assets shall be conveyed in "As Is" and "Where Is" condition. Except for the warranty of title, there are no warranties of any kind, express or implied.

The Court is satisfied that post closing Assignee will have continued access to the property. As such, Assignee shall continue to maintain the Bond and will continue to keep insurance in place.

Based on the foregoing, the Court is satisfied that it is appropriate to enter an Order granting the Motion. Therefore, it is

Ordered as follows:

1. The Motion is Granted in all respects.
2. The Asset Purchase Agreement is approved in all respects. The Assignee is authorized and directed to undertake the transactions contemplated by the Asset Purchase Agreement.
3. The Purchaser is a good faith purchaser for value. The Purchaser is not a successor to GAE or to the Assignee. Purchaser is not a successor in interest to Seller and Purchaser is not continuing Seller's business operations. The Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters (as defined in the Asset Purchase Agreement) and by removing the Assets from the Property, Purchaser shall not be deemed to be an owner of the Property for any purpose whatsoever.
4. The Purchaser shall pay the Purchase Price before the Assets are removed from the grounds at the GAE plant.
5. Pursuant to Florida Statutes Section 727.114 and applicable law the Assignee is authorized and directed to sell, transfer, assign and convey the Assets to the Purchaser free and clear of any and all Encumbrances. At closing, the Assignee is authorized to pay the ad valorem taxes due to the Hillsborough County Tax Collector, any other taxes, and deliver the remaining net proceeds of the sale to Wells Fargo Business Credit. All persons that have held, currently hold or may hold a claim against, equity interest in, or other debt or liability

against GAE, regardless of whether proof of such claim or interest was filed in this proceeding, are enjoined from taking any of the following actions on account of any such claims, equity interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or against the Debtor, the Plan Administrator, the Estate, the Remaining Assets or Estate property: (i) commencing or continuing in any manner any action or other proceeding as against or involving the Assets; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order as against the Assets; or (iii) creating, perfecting or enforcing any lien or encumbrance in or against the Assets.

6. The Assignee is authorized and directed to execute and deliver all papers necessary to consummate this transaction in accordance with the terms of the Asset Purchase Agreement which has been filed with the Court in his official capacity as Assignee and not in any individual capacity unless otherwise stated.

7. The Court shall retain jurisdiction for the purposes of enforcing and interpreting this Order.

Done and Ordered at Hillsborough County, Florida on _____

Martha J. Cook
Hillsborough County Circuit Judge

cc:

Larry M. Foyle (FL Bar. No. 307343)
KASS, SHULER, SOLOMON, SPECTOR,
FOYLE, & SINGER, P. A.
P.O. Box 800
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(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, III, Assignee

Larry Foyle shall serve a copy of the foregoing order on all parties and file a Certificate of Service with the Court evidencing such service.

Certificate of Service

I Hereby Certify that a true copy of this **ORDER APPROVING ASSIGNEE'S MOTION TO APPROVE PROPOSED SALE TO PURCHASER – ONE (1) 3,000 TON TUBE TEN INCH EXTRUDER PRESS AND RELATED EQUIPMENT FREE AND CLEAR OF LIENS AND ENCUMBRANCES** has been provided by Ordinary US Mail on the _____ day of _____ 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified in the Motion to Approve the Sale paragraphs 8(i), (ii) and (iii)

Larry M. Foyle (FL Bar. No. 307343)

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor.

to

THOMAS D. HAYS, III,
Assignee.

**ORDER (I) APPROVING ASSET PURCHASE AGREEMENT; (II)
AUTHORIZING SALE OF ONE (1) 3,000 TON UBE TEN INCH EXTRUDER
PRESS AND RELATED ASSETS; AND, (III) GRANTING RELATED RELIEF**

This cause came on for hearing on _____ upon the *Assignee's Motion For Order (I) Approving Asset Purchase Agreement; (II) Authorizing Sale of One (1) 3,000 Ton Ube Ten Inch Extruder Press and Related Equipment; and (III) Granting Related Relief* (the "Motion"). Notice of the Motion of the hearing thereon was provided to all creditors, each entity that claims an interest in the Assets (as defined in the Motion) and other parties in interest as certified in the Certificate of Service to the Motion filed by Thomas D. Hays, III, Assignee. The Motion seeks approval of the Asset Purchase Agreement annexed to the Motion as Exhibit A, approval of the sale of the 3,000 Ton Ube Ten Inch Extruder Press and Related Equipment as more particularly described in the Asset Purchase Agreement (the "Assets"), free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances") and approving the Assignee's efforts to wind up the business affairs of GAE Plant City, LLC.

The Court has reviewed the Motion and the record in this case. The Record reveals that good and adequate notice of the Motion and of the hearing have been provided, and that no further or other notice is required under the circumstances. No objections to the Motion or to the relief requested therein were filed or served.

The proposed buyer, Keymark of Lakeland, LLC, a Delaware limited liability company ("Purchaser"), with a mailing address of 2540 Knights Station Road, Lakeland, FL 33810, is not affiliated with Assignee, GAE Plant City, LLC ("GAE") or any of its officers, directors or managers. There are no agreements between the Seller and the Purchaser, except as memorialized in the Asset Purchase Agreement. The record reflects that the Assignee undertook extensive efforts to sell the Assets, including hiring a broker and an auctioneer to market the property. The Purchaser's offer for the Assets is the best *bona fide* offer

received by the Assignee. The Assignee conducted an open and competitive sale process for the Assets. The Purchaser's offer for the Assets, memorialized in the Asset Purchase Agreement, represents the highest and best offer received by the Assignee for the Assets. Based on the record before the Court, the Court concludes that the consideration to be paid by the Purchaser constitutes reasonably equivalent value for the Assets and that the Purchaser is a good faith purchaser for value.

The Court is satisfied that the sale proceeds shall first be used to pay off the ad valorem taxes assessed against or on the Assets, and thereafter the net proceeds shall be remitted to Wells Fargo Business Credit.

The Court finds that under Florida Statutes Ch. 727, the Assignee has the right to sign as "attorney in fact" for GAE for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purpose of the assignment."

The Court further finds that pursuant to Florida Statutes sections 727.109(7), 727.111(4) and 727.114, the sale is made and the Assets shall be conveyed to the Purchaser free and clear of Encumbrances, including without limitation, the following:

- i. Any claim or lien of the Hillsborough County Tax Collector for ad valorem or other taxes;
- ii. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida;
- iii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida; and
- iv. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

Under Florida Statutes section 727.109(7) the Court may:

"Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval of a proposed sale of assets of the estate other than in the ordinary course of business, or the compromise or settlement of a controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion."

Under Florida Statutes section 727.111(4)

"The assignee shall give the assignor and all creditors not less than 20 days' notice by mail of a proposed sale of assets of the estate other than in the ordinary course of business,"

Under Florida Statutes section 727.114(1)(a) Priority of claims

". . . Creditors with liens on assets of the estate, which liens are duly perfected pursuant to applicable law, shall receive the proceeds from the disposition of their collateral, less the reasonable, necessary expenses of preserving or disposing of such collateral to the extent of any benefit to such creditors. If and to the extent that such proceeds are less than the amount of a creditor's claim or a creditor's lien is avoided pursuant to s. 727.109(8)(c) , such a creditor shall be deemed to be an unsecured creditor for such deficiency pursuant to paragraph (f). "

As a result, the Court is satisfied that provided the Assignee pays the taxes and remits the balance of the sales proceeds to the first and paramount lien holder, Wells Fargo Business Credit, that even though other creditors identified below who will not be paid and who do not consent, shall be deemed unsecured creditors under the statute and hold no further claim against the Assets being sold by this Order because the property is being sold free and clear of all Encumbrances.

The Assignee has represented that the Assets are presently installed or located inside one of the buildings situate on the real property at GAE location 1650 Alumax Circle, Plant City, Hillsborough County, Florida. The Assets will have to be dismantled and removed in a coordinated process that has been agreed to by the Assignee and the Purchaser. The Court is further satisfied that Wells Fargo Business Credit Consents to the sale.

The Contract has certain bench marks that the Purchaser has satisfied and represents that it has the wherewithal to perform the balance of the contract price. The Assignee represents that all funds will be received by Assignee prior to any ultimate removal of the Assets and only following execution of all of the closing documents and the satisfaction of all other conditions contained in the Asset Purchase Agreement.

The Court is further satisfied that the Assignee holds, shall convey and by this Order is authorized to convey to the Purchaser, good and marketable title to the Assets free and clear of all Encumbrances. In all other respects the Assets shall be conveyed in "As Is" and "Where Is" condition. Except for the warranty of title, there are no warranties of any kind, express or implied.

The Court is satisfied that post closing Assignee will have continued access to the property. As such, Assignee shall continue to maintain the Bond and will continue to keep insurance in place.

Based on the foregoing, the Court is satisfied that it is appropriate to enter an Order granting the Motion. Therefore, it is

Ordered as follows:

1. The Motion is Granted in all respects.
2. The Asset Purchase Agreement is approved in all respects. The Assignee is authorized and directed to undertake the transactions contemplated by the Asset Purchase Agreement.
3. The Purchaser is a good faith purchaser for value. The Purchaser is not a successor to GAE or to the Assignee. Purchaser is not a successor in interest to Seller and Purchaser is not continuing Seller's business operations. The Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters (as defined in the Asset Purchase Agreement) and by removing the Assets from the Property, Purchaser shall not be deemed to be an owner of the Property for any purpose whatsoever.
4. The Purchaser shall pay the Purchase Price before the Assets are removed from the grounds at the GAE plant.
5. Pursuant to Florida Statutes Section 727.114 and applicable law the Assignee is authorized and directed to sell, transfer, assign and convey the Assets to the Purchaser free and clear of any and all Encumbrances. At closing, the Assignee is authorized to pay the ad valorem taxes due to the Hillsborough County Tax Collector, any other taxes, and deliver the remaining net proceeds of the sale to Wells Fargo Business Credit. All persons that have held, currently hold or may hold a claim against, equity interest in, or other debt or liability against GAE, regardless of whether proof of such claim or interest was filed in this proceeding, are enjoined from taking any of the following actions on account of any such claims, equity interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or against the Debtor, the Plan Administrator, the Estate, the Remaining Assets or Estate property: (i) commencing or continuing in any manner any action or other proceeding as against or involving the Assets; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order as against the Assets; or (iii) creating, perfecting or enforcing any lien or encumbrance in or against the Assets.

6. The Assignee is authorized and directed to execute and deliver all papers necessary to consummate this transaction in accordance with the terms of the Asset Purchase Agreement which has been filed with the Court in his official capacity as Assignee and not in any individual capacity unless otherwise stated.

7. The Court shall retain jurisdiction for the purposes of enforcing and interpreting this Order.

Done and Ordered at Hillsborough County, Florida on _____

Martha Cook
Hillsborough County Circuit Judge

cc:

Larry M. Foyle (FL Bar. No. 307343)
KASS, SHULER, SOLOMON, SPECTOR,
FOYLE, & SINGER, P. A.
P.O. Box 800
Tampa, FL 33601
(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, III, Assignee

Larry Foyle shall serve a copy of the foregoing order on all parties and file a Certificate of Service with the Court evidencing such service.

Certificate of Service

I Hereby Certify that a true copy of this **ORDER APPROVING ASSIGNEE'S MOTION TO APPROVE PROPOSED SALE TO PURCHASER – ONE (1) 3,000 TON UBE TEN INCH EXTRUDER PRESS AND RELATED EQUIPMENT FREE AND CLEAR OF LIENS AND ENCUMBRANCES** has been provided by Ordinary US Mail on the _____ day of _____ 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified as in Motion's paragraphs 8(i), (ii) and (iii) above

Larry M. Foyle (FL Bar. No. 307343)

**IN THE CIRCUIT COURT FOR HILLSBOROUGH COUNTY, FLORIDA
13TH JUDICIAL CIRCUIT**

In re

Case No. 08-CA-24549

GAE PLANT CITY, LLC,
Assignor.

to

THOMAS D. HAYS, III,
Assignee.

**ORDER (I) APPROVING ASSET PURCHASE AGREEMENT WITH K & K
PIPE WHOLESALERS, INC.; (II) AUTHORIZING SALE OF REAL PROPERTY
AND IMPROVEMENTS THEREON; AND, (III) GRANTING RELATED RELIEF**

This cause came on for hearing on December 14, 2009, upon the Assignee's Motion For Order (I) Approving Asset Purchase Agreement with K & K Pipe Wholesalers, Inc.; (II) Authorizing Sale of the Real Property and Improvements Thereon; and (III) Granting Related Relief (the "Motion"). Notice of the Motion of the hearing thereon was provided to all creditors, each entity that claims an interest in the Assets (as defined in the Motion) and other parties in interest as certified in the Certificate of Service to the Motion filed by Thomas D. Hays, III, Assignee. The Motion seeks approval of the Asset Purchase Agreement annexed to the Motion as Exhibit A, approval of the sale of the Real Property and Improvements Thereon as more particularly described in the Asset Purchase Agreement and the Amendment thereto (the "Assets"), free and clear of all liens, claims, interests and encumbrances (collectively, the "Encumbrances") and approving the Assignee's efforts to wind up the business affairs of GAE Plant City, LLC.

The Court has reviewed the Motion and the record in this case. The Record reveals that good and adequate Notice of the Motion and of the Hearing have been provided, and that no further or other notice is required under the circumstances. No objections to the Motion or to the relief requested therein were filed or served.

The proposed buyer, K & K Pipe Wholesalers, Inc, ("Purchaser"), with a mailing address of P.O. Box 5309, Basking Ridge, New Jersey 07920, is not affiliated with Assignee, GAE Plant City, LLC ("GAE") or any of its officers, directors or managers. There are no agreements between the Seller and the Purchaser, except as memorialized in the Asset Purchase Agreement and the amendments thereto (however, the parties have negotiated a price concession which is not in the initial APA or Amendment but has been disclosed to the Court.

The record reflects that the Assignee undertook extensive efforts to sell the Assets, including hiring a broker and an auctioneer to market the property. The Purchaser's offer for the Assets is the best *bona fide* offer received by the Assignee. The Assignee conducted an open and competitive sale process for the Assets. The Purchaser's offer for the Assets, memorialized in the Asset Purchase Agreement and as amended, represents the highest and best offer received by the Assignee for the Assets. Based on the record before the Court, the Court concludes that the consideration to be paid by the Purchaser constitutes reasonably equivalent value for the Assets and that the Purchaser is a good faith purchaser for value.

The Court is satisfied that the sale proceeds shall first be used to pay off the ad valorem taxes assessed against or on the Assets, and thereafter the net proceeds shall be remitted to Wells Fargo Business Credit.

The Court finds that under Florida Statutes Ch. 727, the Assignee has the right to sign as "attorney in fact" for GAE for all purposes including to "sign the name of the assignor to any instrument in writing, whenever it shall be necessary to do so, to carry out the purpose of the assignment."

The Court further finds that pursuant to Florida Statutes sections 727.109(7), 727.111(4) and 727.114, the sale is made and the Assets shall be conveyed to the Purchaser free and clear of Encumbrances, including without limitation, the following:

- i. Any claim or lien of the Hillsborough County Tax Collector for ad valorem or other taxes;
- ii. Claim of Lien in favor of Plibrico Company, LLC recorded in Official Records Book 18909, Page 576, Public Records of Hillsborough County, Florida;
- iii. Claim of Lien in favor of Prime Material Sales, Inc. recorded in Official Records Book 18969, Page 1503, Public Records of Hillsborough County, Florida; and
- iv. Golden Aluminum Extrusion, LLC, a Delaware Limited Liability Company recorded in Official Records Book 18176, Page 423 Public Records of Hillsborough County, Florida, has provided a satisfaction of its claim of lien against the property.

Under Florida Statutes section 727.109(7) the Court may:

"Upon notice as provided under s. 727.111 to all creditors and consensual lien holders, hear and determine a motion brought by the assignee for approval of a proposed sale of assets of the estate other than in the ordinary course of business, or the compromise or settlement of a

controversy, and enter an order granting such motion notwithstanding the lack of objection if the assignee reasonably believes that such order is necessary to proceed with the action contemplated by the motion.”

Under Florida Statutes section 727.111(4)

“The assignee shall give the assignor and all creditors not less than 20 days' notice by mail of a proposed sale of assets of the estate other than in the ordinary course of business,”

Under Florida Statutes section 727.114(1)(a) Priority of claims

“ . . . **Creditors with liens on assets of the estate**, which liens are duly perfected pursuant to applicable law, shall receive the proceeds from the disposition of their collateral, less the reasonable, necessary expenses of preserving or disposing of such collateral to the extent of any benefit to such creditors. **If and to the extent that such proceeds are less than the amount of a creditor's claim** or a creditor's lien is avoided pursuant to s. 727.109(8)(c) , **such a creditor shall be deemed to be an unsecured creditor for such deficiency** pursuant to paragraph (f). “

As a result, the Court is satisfied that provided the Assignee pays the taxes and remits the balance of the sales proceeds to the first and paramount lien holder, Wells Fargo Business Credit, that even though other creditors identified below who will not be paid and who do not consent, shall be deemed unsecured creditors under the statute and hold no further claim against the Assets being sold by this Order because the property is being sold free and clear of all Encumbrances.

The Assignee has represented that the Assets are the real property at GAE location 1650 Alumax Circle, Plant City, Hillsborough County, Florida. The Assets will be formally conveyed by the Deed from Assignee who shall sign with power of attorney and not individually to convey said assets to the Purchaser. The Court is further satisfied that Wells Fargo Business Credit Consents to the sale.

The Assignee represents that all funds will be received by Assignee prior to conclusion of the closing and the Deed to the Assets will only be conveyed following execution of all of the closing documents and the satisfaction of all other conditions contained in the Asset Purchase Agreement.

The Court is further satisfied that the Assignee holds, shall convey and by this Order is authorized to convey to the Purchaser, good and marketable title to the Assets free and clear of all Encumbrances. In all other respects the Assets

shall be conveyed in "As Is" and "Where Is" condition. Except for the warranty of title, there are no warranties of any kind, express or implied.

The Court is satisfied that post closing Assignee will have continued access to the property to the extent necessary to complete the removal of the machinery and equipment being sold to third parties. As such, Assignee shall continue to maintain a Bond, but shall be entitled to seek a reduction in the bond amount once the real property and the machinery and equipment have been conveyed to third parties. Once sale has been consummated and the real estate has been conveyed, the insurance in place may be modified and/ or terminated.

Based on the foregoing, the Court is satisfied that it is appropriate to enter an Order granting the Motion. Therefore, it is

Ordered as follows:

1. The Motion is Granted in all respects.
2. The Asset Purchase Agreement is approved in all respects. The Assignee is authorized and directed to undertake the transactions contemplated by the Asset Purchase Agreement.
3. The Purchaser is a good faith purchaser for value. The Purchaser is not a successor to GAE or to the Assignee. Purchaser is not a successor in interest to Seller and Purchaser is not continuing Seller's business operations. The Purchaser shall have no liability to any local, state or federal agency for any Existing Environmental Matters (as defined in the Asset Purchase Agreement).
4. The Purchaser shall pay the Purchase Price before the Assets are finally conveyed by Deed.
5. Pursuant to Florida Statutes Section 727.114 and applicable law the Assignee is authorized and directed to sell, transfer, assign and convey the Assets to the Purchaser free and clear of any and all Encumbrances. At closing, the Assignee is authorized to pay the ad valorem taxes due to the Hillsborough County Tax Collector, any other taxes, and deliver the remaining net proceeds of the sale to Wells Fargo Business Credit. All persons that have held, currently hold or may hold a claim against, equity interest in, or other debt or liability against GAE, regardless of whether proof of such claim or interest was filed in this proceeding, are enjoined from taking any of the following actions on account of any such claims, equity interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan or against the Debtor, the Plan Administrator, the Estate, the Remaining Assets or Estate property: (i) commencing or continuing in any manner any action or other proceeding as against or involving the Assets; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order as against the Assets; or

(iii) creating, perfecting or enforcing any lien or encumbrance in or against the Assets.

6. The Assignee is authorized and directed to execute and deliver all papers necessary to consummate this transaction in accordance with the terms of the Asset Purchase Agreement which has been filed with the Court in his official capacity as Assignee and not in any individual capacity unless otherwise stated.

7. The Court shall retain jurisdiction for the purposes of enforcing and interpreting this Order.

Done and Ordered at Hillsborough County, Florida on _____

Martha J. Cook
Hillsborough County Circuit Judge

cc:

Larry M. Foyle (FL Bar. No. 307343)
KASS, SHULER, SOLOMON, SPECTOR,
FOYLE, & SINGER, P. A.
P.O. Box 800
Tampa, FL 33601
(813)229-0900 (ext. 1353)
Fax (813) 769 7563
Attorneys for Thomas Hays, III, Assignee

Larry Foyle shall serve a copy of the foregoing order on all parties and file a Certificate of Service with the Court evidencing such service.

Certificate of Service

I Hereby Certify that a true copy of this **ORDER APPROVING ASSIGNEE'S MOTION TO APPROVE PROPOSED SALE TO PURCHASER –K & K Pipe Wholesalers, Inc., FREE AND CLEAR OF LIENS AND ENCUMBRANCES** has been provided by Ordinary US Mail on the 24th day of November, 2009, to each of the parties listed in the Original Assignment as modified by the Amended and Restated Assignment and as further modified by deleting names of those persons whose mail has been returned as refused or undeliverable. In addition, Notice has been provided by certified mail return receipt requested on the parties who have Judgment liens of record and who have been identified as in Motion's paragraphs 8(i), (ii) and (iii) above

Larry M. Foyle (FL Bar. No. 307343)