

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION

In re:	)	
	)	Chapter 11
	)	
OGGUSA, Inc., <i>et al.</i> , <sup>1</sup>	)	Case No. 20-50133-grs
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Honorable Gregory R. Schaaf
	)	

**ORDER GRANTING MOTION OF THE DEBTORS AND DEBTORS IN POSSESSION FOR ENTRY OF AN ORDER AUTHORIZING THE SALE OF ESTATE PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, AND ENCUMBRANCES VIA PRIVATE SALE**

Upon consideration of the motion, dated September 18, 2020 [Docket No. 1353] (the “Motion”), filed by OGGUSA, Inc. (f/k/a GenCanna Global USA, Inc.) (“OGGUSA”) and its affiliated debtors and debtors in possession in these cases (collectively, the “Debtors”), for entry of an order, pursuant to sections 105(a), 363(b) and (f) of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”): (i) approving OOGUSA’s entry into that certain Commercial Offer to Purchase (Contract), dated September 8, 2020, attached as **Exhibit 1** hereto (the “Purchase Agreement”), by and between OOGUSA, as Seller (the “Seller”), and Coe Holding Company, LLC, a Florida Limited Liability Company, as Purchaser (the “Purchaser,” and together with the Seller, the “Parties”);<sup>2</sup> (ii) authorizing the private sale of the real property located and improvements located in McCracken County, Kentucky, and known to the Parties as 322 N 3rd

<sup>1</sup> The Debtors in these chapter 11 bankruptcy cases are (with the last four digits of their federal tax identification numbers in parentheses): OGGUSA, Inc. (0251); OGG, Inc. (N/A); and Hemp Kentucky, LLC (0816).

<sup>2</sup> Capitalized terms not otherwise defined in this Order have the meanings ascribed to such terms in the Motion, or if not defined therein, the Purchase Agreement.

St, Paducah, KY 42001, together with three (3) parking lots (Parcel IDs: 11-13-20-001, 112-13-20-002, 112-13-20-003, 112-13-15-004, 112-13-15-010, 112-13-15-001, 112-13-15-002, 112-13-16-002 (collectively, the “Paducah Property”), free and clear of all liens, claims, encumbrances and other interests on the terms set forth in the Purchase Agreement (the “Sale”); and due and proper notice of the Motion and the exhibits thereto having been given; and no other or further notice being required; and this Court having jurisdiction to consider the Motion in accordance with 28 U.S.C. §§ 157 and 1334; and this being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having considered the Motion and all responses to the Motion, if any; and after due deliberation thereon; and it appearing that the entry of this Order and granting the relief set forth herein are in the best interests of the Debtors and their bankruptcy estates; and good and sufficient cause appearing therefore;

**IT IS HEREBY ORDERED AND ADJUDGED** that:

1. The Motion is **GRANTED**, as set forth herein.
2. The Purchase Agreement, together with all of the terms and conditions thereof, is approved.
3. Proper, timely, adequate, and sufficient notice of the Motion was provided and no other or further notice of the Motion or of the entry of this Order is required.
4. All objections and responses, if any, to the sale of the Paducah Property to the Purchaser or the related relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the Court at the hearing on the Motion or by stipulation filed with the Court or pursuant to the terms of this Order, and all reservations of rights included therein, are hereby overruled on the merits, with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein.

5. The sale of the Paducah Property pursuant to the Purchase Agreement meets the standards for sales outside the ordinary course of business under section 363(b)(1) of the Bankruptcy Code. The sale to the Purchaser represents an exercise of the sound business judgment of the Debtors and is appropriate in light of the facts and circumstances surrounding the Paducah Property and these Chapter 11 Cases because (a) the Debtors conducted a fair and open process to obtain the highest or best offer in connection with the sale of the Paducah Property, but did not receive any higher bids for the Paducah Property, and (b) the terms of the Sale are fair and reasonable and were negotiated in good faith and at arm's length with the Purchaser.

6. The sale of the Paducah Property through a private sale is justified under the facts and circumstances surrounding the Paducah Property and these Chapter 11 Cases.

7. The failure specifically to include any particular provision of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provision, and the Court hereby authorize the Debtors to enter into the Purchase Agreement, which is approved in its entirety.

8. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized to perform their obligations under and to comply with the terms of the Purchase Agreement, and to consummate the sale of the Paducah Property to the Purchaser, pursuant to and in accordance the terms and conditions of the Purchase Agreement.

9. The Debtors are authorized to execute and deliver, and are empowered to perform under, consummate and implement, the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement, and to take all further actions as may be reasonably required for the purpose of assigning, transferring, granting, conveying and conferring the Paducah Property to the

Purchaser, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

10. Pursuant to section 363(f) of the Bankruptcy Code, the sale of the Paducah Property to the Purchaser shall be free and clear of any and all liens, claims, and encumbrances against the Paducah Property, with such liens, claims, and encumbrances to attach to the Debtors' share of the proceeds of the Sale with the same force, effect, and priority as such liens, claims and encumbrances have on the Paducah Property and subject to the same objections and defenses of the Debtors and their estates, as appropriate.

11. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale shall not affect the validity of the sale of the Paducah Property to the Purchaser, unless such authorization is duly stayed pending such appeal. The Purchaser is a purchaser in good faith of the Paducah Property, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

12. The consideration provided by the Purchaser for the Paducah Property under the Purchase Agreement is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code or otherwise. The Sale of the Paducah Property to the Purchaser is non-collusive, fair, and reasonable and conducted in good faith, and the transactions contemplated by the Purchase Agreement have been bargained for and undertaken by the Debtors and the Purchaser at arm's length and without collusion, such that the sale approved by this Order is not subject to avoidance pursuant to section 363(n) of the Bankruptcy Code.

13. The rights and defenses of the Debtors and any other party in interest with respect

to any assertion that any liens, claims, and encumbrances will attach to the proceeds of the Sale are hereby preserved.

14. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion, including, but not limited to, payment to the Broker from the proceeds of the Sale of the four percent (4%) commission set forth in the Listing Agreement.

15. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rule 6004(h), the Court expressly finds that there is no just reason for delay in the implementation of this Order, and expressly directs entry of judgment as set forth herein. This Order shall be effective immediately upon entry, and the Debtors and the Purchaser are authorized to close the Sale contemplated by the Purchase Agreement immediately upon entry of this Order. Time is of the essence in closing the Sale, and the Debtors and the Purchaser intend to close the Sale as soon as practicable.

16. The proceeds of the Sale of the Paducah Property shall be distributed in accordance with the Proceeds Distribution Waterfall and otherwise in accordance with the CFSB Stipulation Approval Order. For the avoidance of doubt, in the event that the Sale yields proceeds insufficient to satisfy the Note Obligations in full, any deficiency claim remaining to CFSB shall be an unsecured, nonpriority claim against the estate of OGGUSA.

17. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Tendered by:

/s/ James R. Irving

James R. Irving

April A. Wimberg

Christopher B. Madden

DENTONS BINGHAM GREENEBAUM LLP

3500 PNC Tower

101 South Fifth Street

Louisville, Kentucky 40202

Telephone: (502) 587-3606

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april.wimberg@dentons.com

chris.madden@dentons.com

*Counsel for the Debtors*

**Exhibit 1**

[Purchase Agreement]

Date: 09/08/2020

**1. IDENTIFICATION OF PROPERTY:** The property which is the subject matter of this Offer to Purchase ("Contract") is located in McCracken County, Kentucky, and is described as follows (hereinafter "Property"):

322 N 3rd St, Paducah, KY 42001 and 3 parking lots - Parcel IDs: 11-13-20-001, 112-13-20-002, 112-13-20-003, 112-13-15-004, 112-13-15-010, 112-13-15-001, 112-13-15-002, 112-13-16-002

**2. PURCHASE PRICE AND EARNEST MONEY:** Purchaser offers and agrees to pay the sum of \$1,050,000, as the full purchase price for the Property. An earnest money deposit of \$50,000 shall be paid upon acceptance hereof and shall be deposited with The Gibson Company to be applied to the purchase price at closing. This deposit shall be refunded to Purchaser if title to the Property is unmarketable or if any contingencies contained in this Offer to Purchase are unsatisfied at the time of the closing, or paid to Seller in the event of Purchaser's default as described in Paragraph 6 below. The balance of the purchase price shall be paid in full at closing.

The parties acknowledge that in accordance with KRS 324.111(4), the earnest money deposit shall not be removed from the broker's escrow account except upon (a) performance of this Contract by all parties, (b) written agreement of the parties, or c) an order from a court of competent jurisdiction.

**3. CLOSING, POSSESSION AND CLOSING COSTS:** The closing of the Property shall be held at such time and place as the parties may agree, but in any event on or before 10/19/2020. All property taxes, insurance, utilities, rents or any other charges affecting the Property shall be prorated as of the date of closing. Possession of the Property, subject to any existing leasehold rights, shall be given to the Purchaser at the time of closing. Purchaser shall pay the costs of any title policies or title opinions and recording fees. Seller shall pay for deed transfer tax and deed preparation. Unless otherwise agreed, each party will be responsible for its own attorney fees and such other closing costs as are customarily paid by a Purchaser and Seller in the area.

**4. TITLE AND TITLE DEFECTS:** At closing an unencumbered, good and marketable fee simple title to the Property shall be conveyed to Purchaser by deed of  general or  special warranty with the usual covenants such as any national title company will insure, free and clear of all liens and encumbrances and subject to easements of record and all restrictions of record as to the use of and improvements of the Property, as Purchaser may specifically approve. Purchaser shall obtain a title examination which will be updated not later than 14 days prior to the scheduled closing date but in any event shall have a minimum of 10 days to obtain said title examination. At Closing, Seller shall pay and release all amounts secured by mortgages or other liens on the Property. Should the title be defective, Seller shall have 10 days after receipt of notice from Purchaser of such defect(s) within which to remedy same at the cost of Seller. If said defects cannot be resolved to the satisfaction of Purchaser within that time, this Contract will be voidable at the option of Purchaser. Should this Contract be voided, both parties shall sign a mutual release to refund all earnest money to Purchaser.

**5. INDEMNIFICATION OF AGENT:** Purchaser and Seller recognize that the Agent(s) involved in this sale is relying on all information provided herein or supplied by Seller or its sources in connection with the Property and agree to indemnify and hold harmless the Agent(s) and his employers from any claims, demands, damages, suits, liabilities, cost and expense (including reasonable attorney's fees) arising out of any hidden or latent defects concerning the Property, or any misrepresentation or concealment of facts by Seller or its sources. The obligations of Purchaser and Seller under this Section shall survive the Closing.

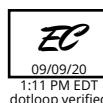
**6. DEFAULT:** In the event of a default by Purchaser, Seller shall receive the earnest money deposit and shall also be entitled to pursue any other legal remedy, including the right to bring an action against Purchaser for damages or for the specific performance of this Contract. In the event of a default by Seller, Purchaser shall be entitled to a refund of the earnest money deposit and shall also be entitled to pursue any other legal remedy, including the right to bring an action against Seller for damages or for the specific performance of this Contract.

**7. ZONING:** Seller represents that based on maps and zoning authorities, the Property is currently zoned B-3 and that the present use of the Property is a permitted use within said classification. Purchaser acknowledges that such zoning is governed by the applicable governmental authorities and in the event Purchaser intends to pursue a zone change or change the primary use of the Property within the existing zoning, it shall be the responsibility of Purchaser to investigate and determine that any intended use is a permissible use or to pursue any such zone change. Purchaser shall not have the right to seek any zoning change without the prior written consent of Seller.

**8. ENVIRONMENTAL:** Purchaser shall have the right to conduct a hazardous waste and environmental study, at Purchaser's expense. If any violations are revealed, the cost to rectify such violations shall be paid by Seller. If violations are not corrected, the Contract shall be voidable at the option of the Purchaser. Should the Contract be voided, both parties shall sign a mutual release to refund all earnest money to the Purchaser.

**9. UTILITIES:** Seller represents that all utilities consistent with the present use of the Property, including, but not limited to, electricity, water, sewer, trash removal, and fire and police protection are available to the Property. If Purchaser intends to change the use of the Property from the present use, then it is Purchaser's responsibility to assure that all utilities required for the intended use of the Property are available.

**10. NOTICES:** All notices, elections, requests, demands or other communications herein mentioned shall be made at the address shown in this Contract and shall be made in writing and shall be delivered by (1) personal delivery; (2) electronic mail; or (3) a nationally recognized overnight delivery service. Notice shall be deemed to have been effective on the date of actual receipt, except that if delivery is attempted and refused, then notice shall be deemed to be effective on the third day after delivery is attempted, whether or not actually received.





**11. RISK OF LOSS:** The risk of loss from whatever cause with respect to the Property shall remain with Seller prior to closing, except that Purchaser shall be responsible for any loss that results solely from action taken by the Purchaser or Purchaser's authorized agent or representative. In the event the Property is damaged so that it cannot be conveyed in substantially the same condition as it was at the time of acceptance of this Contract, this Contract shall be voidable at the option of Purchaser. Should this Contract be voided, both parties shall sign a mutual release to refund all earnest money to Purchaser.

**12. INVESTIGATION PERIOD-ACCESS TO PROPERTY:** Purchaser and its authorized agents or representatives, shall, for a period of 25 \_\_\_\_\_ days following the date of acceptance of this Contract by Seller, be entitled to reasonable access to the Property for the purpose of determining the suitability of the Property for Purchaser's intended use. Purchaser shall be entitled to conduct any surveys, soil tests, environmental inspections, and other related activities which may be reasonably necessary in connection with the intended use of the Property. In order to assist Purchaser in its due diligence investigations, Seller in its discretion may provide such due diligence materials that Seller may have in its files such as title exams, Phase I environmental reports, surveys and plats, and zoning documents. Purchaser assumes all responsibility for the acts of its agents or representatives in exercising any rights under this provision and agrees to hold Seller harmless from any damages and injuries resulting therefrom. In the event Purchaser determines, in its sole discretion, that the Property is not acceptable for Purchaser's intended use, then Purchaser shall be entitled to void this Contract and neither Party shall have any further obligation to the other. Purchaser shall give Seller or Seller's agent actual notice of Purchaser's intentions to void this Contract on or before the last day of the investigation period established by this paragraph of the Contract.

**13. MAINTENANCE OF PROPERTY:** Seller agrees to maintain any improvements on the Property and grounds, including, if applicable, systems, appliances and equipment in normal operating condition, and to keep the roof water-tight and in good repair at all times prior to closing. Seller warrants that Seller has no actual knowledge of any presently existing latent defects which would materially impair the fitness of the Property for its intended use. Other than maintaining the Property in its present condition, Seller shall have no further obligation to make additional repairs unless agreed to in writing.

**14. AVAILABILITY OF DOCUMENTS:** Seller will make available to Purchaser, all leases, contracts, equipment leases, service agreements, government permits, income or operating statements, if applicable, or other similar documents which would affect Purchaser's use of the Property. At closing, Seller shall execute any assignments or other documents necessary to transfer such leases and other agreements to Purchaser.

**15. CONTRACT CONTINGENCIES:** This Contract is contingent upon the following conditions being met to the satisfaction of the Purchaser prior to closing or with any time limits as may be particularly set forth herein. If any of the contingencies are not satisfied, this Contract may, at the option of the Purchaser, become null and void and the earnest money shall be returned to the Purchaser.



**A. Due Diligence:** Purchaser shall have satisfied itself with respect to all aspects of the Property during the investigation period described in Paragraph 12 above.

**B. Financing:** Purchaser shall have obtained a binding commitment for the funding of a loan in the amount of \$N/A \_\_\_\_\_ at an interest rate not to exceed N/A \_\_\_\_\_ percent, to be amortized over a period of N/A \_\_\_\_\_ years, having a maturity of N/A \_\_\_\_\_ years, with monthly payments of approximately \$N/A \_\_\_\_\_ for principal and interest. Purchaser agrees to proceed with due diligence to obtain said financing and to provide Seller with a copy of a bona fide loan commitment or other proof that said loan has been approved within N/A \_\_\_\_\_ days of the acceptance hereof.



**C. Zone Change:** (If applicable) Purchaser obtaining approval from the proper governmental authorities for a zone change from the present zoning of N/A \_\_\_\_\_ to a zoning classification of N/A \_\_\_\_\_. Purchaser agrees to apply for said zone change within N/A \_\_\_\_\_ days of the acceptance of this Contract by Seller and to proceed with due diligence to obtain said zone change. The Parties agree that if said zone change has not been approved by N/A \_\_\_\_\_, this Contract is voidable at the option of the Seller.

**D. Miscellaneous Contingencies or Conditions:** In addition to the foregoing contingencies, this Contract shall be subject to the following additional contingencies or conditions:

The U.S. Bankruptcy Court for the Eastern District of Kentucky shall have entered an order in Seller's bankruptcy case, Case No. 20-50133-grs, authorizing Seller to sell the Property to Purchaser pursuant to the terms of this Contract, which order shall not be subject to any stay of its effectiveness. Notwithstanding anything to the contrary in this Section 15, this condition applies to the obligations of both Seller and Purchaser under this Contract.

   
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**16. REPRESENTATIONS OF SELLER:** Seller represents that Seller has no actual knowledge of (a) any condemnation or assessments affecting or contemplated with respect to the Property; (b) actions, suits or proceedings pending or threatened against the Property; and (c) changes contemplated in any applicable laws, ordinances or restrictions which would adversely affect the intended use of the Property. To the best of Seller's knowledge and belief, Seller has complied with all applicable laws, ordinances and governmental regulations with respect to the use of the Property and has no knowledge or information regarding the condition or intended use of the Property which has not been disclosed to Purchaser.

   
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**17. TAX DEFERRED EXCHANGE:** In the event either party desires to make this transaction part of a tax-deferred exchange, then both parties agree to cooperate, including the execution of additional documents, in affecting such exchange, provided that the exchanging party shall be responsible for all additional costs associated with such exchange and provided that the other party shall not be required to assume or incur any additional liability as a result of such exchange.

**18. MISCELLANEOUS PROVISIONS:** The following miscellaneous provisions shall apply:

**A. Entire Contract:** This Contract contains the entire agreement of the Parties. Each party acknowledges that there are no other agreements, oral or written, and that this Contract may not be amended except in writing signed by all Parties.

**B. Binding on Parties:** This Contract shall inure to the benefit of and shall be binding upon the respective, heirs, successors and assigns of the Parties hereto.

**C. Applicable Law:** This Contract shall be construed under the laws of the Commonwealth of Kentucky.

**D. Assignment:** Purchaser may assign all of its rights and obligations hereunder to a nominee of its choice upon written notice to Seller.

**19. NOTICE TO Parties:** All notices required by this Contract shall be made to the following addresses:

<b>To Purchaser:</b> Coe Holding Company, LLC a Florida Limited Liability Company 3580 Ocean Shore Blvd #105 Flagler Beach, FL 32136 erichcoe@hotmail.com	<b>To Seller:</b> OGGUSA, Inc., f/k/a GenCanna Global USA, Inc. 321 Venable Rd #2 Winchester, KY 40391 gary.broadbent@gencanna.com
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**20. COMMISSIONS:** Seller is represented in this transaction by Brian Erwin, and Purchaser is represented in this transaction by Brian Erwin. Seller shall be responsible for payment of a commission at Closing  in the amount of 4 % of the Purchase Price,  per separate agreement to be shared between both of the foregoing brokers per separate agreement. Purchaser and Seller warrant to each other that they have no knowledge of any other commissions, finder's fees or brokerage fees claimed by any party in connection with this transaction, and each party agrees to indemnify and hold the other harmless from any such claims.

**21. ACCEPTANCE:** This Offer to Purchase must be accepted on or before 09/09/2020 at 5:00 pm.

**22.** All parties to this transaction, including buyers, sellers, real estate agents, lender and closing agents acknowledge that the TRID Closing Disclosure, the Purchasers' Statement, the Sellers' Statement or any other summary form of the transaction does not contain non-public information and may be disclosed to any of the above referenced parties.

**THIS IS A LEGAL AND BINDING DOCUMENT AND THE EXECUTION HEREOF MAY RESULT IN LEGAL CONSEQUENCES THAT COULD BE ENFORCEABLE IN A COURT OF LAW. BOTH PARTIES ACKNOWLEDGE THAT BY EXECUTING THIS DOCUMENT THEY HAVE HAD SUFFICIENT OPPORTUNITY TO CONSULT WITH THEIR RESPECTIVE ATTORNEYS REGARDING THIS CONTRACT AND UNDERSTAND THE LEGAL IMPLICATIONS OF EXECUTION HEREOF.**

PURCHASER:

Eric Coe  
dotloop verified  
09/09/20 11:11 PM EDT  
ELUF-FBPW-QLK1-YWKE  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Date & Time

\_\_\_\_\_ Date & Time

Selling Agent

Brian Erwin \_\_\_\_\_

Office # 170 \_\_\_\_\_

Broker License # 177711 \_\_\_\_\_

LBAR Agent # 10169 \_\_\_\_\_

KREC Agent # 210478 \_\_\_\_\_

Agent Email berwin@thegibsoncompany.com \_\_\_\_\_

Agent Phone Number 859-492-5416 \_\_\_\_\_

SELLER:

Gary Broadbent  
dotloop verified  
09/09/20 11:57 AM EDT  
UOWK-EDPE-3C68-MO7Y  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Date & Time

\_\_\_\_\_ Date & Time

Listing Agent

Brian Erwin \_\_\_\_\_

Office # 170 \_\_\_\_\_

Broker License # 177711 \_\_\_\_\_

LBAR Agent # 10169 \_\_\_\_\_

KREC Agent # 210478 \_\_\_\_\_

Agent Email berwin@thegibsoncompany.com \_\_\_\_\_

Agent Phone Number 859-492-5416 \_\_\_\_\_

If you have specific questions please consult an attorney.

The Lexington-Bluegrass Association of Realtors disclaims any and all liability that may result from your use of this form.

**The affixing of this Court's electronic seal below is proof this document has been signed by the Judge and electronically entered by the Clerk in the official record of this case.**



**Signed By:**  
Gregory R. Schaaf  
**Bankruptcy Judge**  
**Dated: Wednesday, October 14, 2020**  
**(grs)**