

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN
Court Minutes

CHAPTER: 11
DATE: May 27, 2016
JUDGE: Beth E. Hanan
CASE NO.: 16-24179
DEBTOR: Green Box NA Green Bay, LLC
NATURE OF HEARING: Motions for relief from stay or to provide adequate protection, to prohibit the use of cash collateral, and to declare the debtor a single asset real estate debtor filed by Ability Insurance Company and joined by Little Rapids Corporation
APPEARANCES: Paul Swanson, appearing for the debtor
Amy Ginsberg, staff attorney for the United States trustee
Michele McKinnon, appearing for Ability Insurance Company
Erin West, appearing for Little Rapids Corporation
Brittany Ogden, appearing for the Clifton Equities, Inc.
C.J. Murray, appearing for Chapter 128 Receiver Michael Polsky
Brian Thill, appearing for Wisconsin Economic Development Corporation
COURTROOM DEPUTY: Betsy Skibicki
LAW CLERK: Nicholas G. Chmurski

The court held a preliminary hearing on the motions of Ability Insurance Company and Little Rapids Corporation.

Mr. Swanson and Ms. McKinnon provided the court with some background information relating to the debtor and the state court receivership proceeding. Ms. McKinnon argued that the debtor filed this case in bad faith and that the debtor is not currently operating a business and is simply allowing other entities to use its real estate and equipment for free to the detriment of creditors. Mr. Swanson argued that the only reason the debtor is not currently operating a business is because the receiver terminated the debtor's business operations. Mr. Swanson stated that entities related to the debtor, which will be part of the reorganized debtor, are currently carrying on the business operations. Mr. Swanson stated that the reorganized debtor would return more money to creditors than the imminent liquidation under state law would, and that the debtor's new management makes that all possible. Both Ms. McKinnon and Mr. Swanson agreed that an evidentiary hearing would be needed.

Ms. McKinnon requested that the court limit evidence at the evidentiary hearing to just the debtor and its operations, and not allow evidence about the debtor's related entities. The court denied Ms. McKinnon's request to limit evidence, but stated that it would hear argument on why the court should not consider that evidence when making its ruling.

Ms. West stated that in addition to the grounds stated by Ability, Little Rapids also sought an order that would allow the receiver to pay Little Rapids the post-termination rent that the receiver was holding in association with the building that the debtor used to sublet from Little Rapids. Mr. Swanson stated that the debtor had no objection to that part of Little Rapids' motion. When the court questioned whether the parties needed an order from the court, Mr. Murray stated that the receiver would prefer one. The court stated that it would enter an order and requested that Ms. West submit a proposed order.

Ms. Ginsberg stated that the United States trustee was concerned that there was no lease between the debtor and Patriot Tissue, LLC, that the debtor is not currently collecting rent from Patriot, and that there is not an established amount of rent.

The court noted that it was inclined to deny Ability's motion to declare the debtor a single asset real estate debtor, but that it would hear evidence on that issue at the evidentiary hearing.

The court set an evidentiary hearing for **June 20, 2016, at 10:00 a.m. in Room 149** of the United States Courthouse in Milwaukee, Wisconsin.

The court continued the automatic stay as to Ability and Little Rapids pending the outcome of the June 20 evidentiary hearing. *See* 11 U.S.C. § 362(e)(1).