

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WISCONSIN
Court Minutes

CHAPTER: 11
DATES: June 27–28, 2016
JUDGE: Beth E. Hanan
CASE NO.: 16-24179
DEBTOR: Green Box NA Green Bay, LLC
NATURE OF HEARING: Evidentiary hearing on 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
Stephen Smith, manager of the debtor
Ed Kolasinski, COO of the debtor
Amy Ginsburg, appearing for the United States trustee
Michele McKinnon, appearing for Ability Insurance Company
Michael Polsky, Chapter 128 Receiver
C.J. Murray, appearing for Chapter 128 Receiver Michael Polsky
Brittany Ogden, appearing for Clifton Equities, Inc.
Robert Pasch, appearing for Wisconsin Economic Development Corporation
COURTROOM DEPUTY: Betsy Skibicki
LAW CLERK: Nicholas G. Chmurski

Following a preliminary hearing on the motions of Ability and Little Rapids, the court held a final, evidentiary hearing that was commenced on June 27 and continued to June 28.

Ms. McKinnon solicited testimony on direct examination from Mr. Polsky and Mr. Smith in Ability's case-in-chief. Mr. Swanson cross-examined Mr. Polsky. The court admitted exhibits 1, 2, and 3 of Ability into evidence without objection.

Mr. Swanson solicited testimony on direct examination from Mr. Smith and Mr. Kolasinski in the debtor's case-in-chief. Ms. McKinnon cross-examined both Mr. Smith and Mr. Kolasinski, and Ms. Ginsberg cross-examined Mr. Smith. The court admitted exhibit 100 of the debtor without objection.

The court heard oral argument from Ms. McKinnon, Mr. Swanson, and Ms. Ginsberg and continued the matter to June 28 for its oral ruling.

On June 28, the court issued its oral ruling. The court denied Ability's motion for relief from stay, finding that the debtor did not commence this case in bad faith, and thus, that there was not cause to lift the automatic stay. The court denied Ability's motion to declare the debtor a single-asset real estate debtor, and also denied Ability's motion to prohibit the use of cash collateral as moot, given that the debtor

was not using cash collateral. Regarding adequate protection, the court held that the evidence showed that neither the 2107 American Boulevard property, nor the personal property therein, was depreciating in value. Consequently, the court ordered adequate protection as follows: the debtor shall escrow monthly real estate taxes representing 1/12 of the 2015 total, maintain casualty and liability insurance on the property, and maintain the overall condition of the property and not commit waste.

The court denied the joinder to those motions filed by Little Rapids Corporation.

Mr. Swanson shall submit a proposed order after sharing it with Ms. McKinnon. Unless the court hears differently, it will assume that the terms of any proposed order submitted by the debtor are acceptable to Ability.

Electronic recordings of the June 27 and 28 hearings can be found on the docket.