

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re:

GREEN BOX NA GREEN BAY, LLC

Debtor.

Case No. 16-24179

Chapter 11

**NOTICE OF MOTION FOR RELIEF FROM
AUTOMATIC STAY AND ABANDONMENT**

Jario Huilar (“Huilar”), by and through his attorneys, Law Firm of Conway, Olejniczak & Jerry, S.C., has filed a motion with the Court for relief from the automatic stay pursuant to §362(d) of the Bankruptcy Code and for abandonment under § 554(b) of the Bankruptcy Code.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE, IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE).

If you do not want the Court to grant relief as set forth in Huilar’s motion (a copy of which is attached), or if you want the Court to consider your views on the motion, then, within fourteen (14) days of this notice, you or your attorney must file with the Court a written request for a hearing, or if the Court requires a written response, an answer, explaining your position at:

Clerk
U.S. Bankruptcy Court
Eastern District of Wisconsin
Room 126, Federal Building
517 East Wisconsin Avenue
Milwaukee, WI 53202

If you mail your request to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to the following:

Attorney Michele M. McKinnon
Counsel for Jario Huilar
Law Firm of Conway, Olejniczak & Jerry, S.C.
P.O. Box 23200
Green Bay, WI 54305-3200

and Attorney Paul G. Swanson
Attorney for Debtor
107 Church Avenue
P.O. Box 617
Oshkosh, WI 54903-0617

and Attorney Amy J. Ginsberg
Office of the U.S. Trustee
517 E. Wisconsin, #430
Milwaukee, WI 53202

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated this 15th day of September, 2016.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.
Attorneys Jario Huilar

By: /s/ Michele M. McKinnon
Michele M. McKinnon
State Bar No. 1041053

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MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT

Jairo Huilar (“Huilar”) by and through his attorneys, Law Firm of Conway, Olejniczak & Jerry, S.C., hereby moves the Court for an order granting relief from the automatic stay pursuant to §362(d) of the Bankruptcy Code and for abandonment pursuant to §554(b) of the Bankruptcy Code. In support of this Motion, Huilar represents as follows:

1. Huilar entered into a Rental Agreement with Debtor effective July 3, 2013 (the “Lease”) on property located at 432 N. Saint Bernard Drive, De Pere, Wisconsin 54115 (the “Property”). The initial term of the Lease was one (1) year, but the Lease has continued on month-to-month terms since June 30, 2014.
2. The Debtor has failed to make any payments to Huilar since April 9, 2016 and is currently in arrears on its Lease obligations in the amount of \$11,785.00.
3. Debtor has not listed Huilar as a creditor in this action, nor has the Debtor acknowledged any continuing Lease obligations.
4. The Property is currently occupied by Michael and Teresa Ball (collectively, the “Tenants”). Upon information and belief, Michael Ball is a former employee of Debtor.

Michele M. McKinnon
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5. Despite non-payment of rents, the Tenants have failed to vacate the Property.

6. Huilar filed an eviction action on September 13, 2016 in Brown County Circuit Court Case No. 16-SC-4089 seeking to terminate the Lease and evict the Tenants.

7. Attorney Ty Willihnganz appeared at the hearing, on behalf of the Debtor, asserting that the Debtor is protected by the automatic stay.

8. While the automatic stay is *arguably* inapplicable pursuant to 11 U.S.C. §362(b)(10), factual issues may exist as to whether the term of the month-to-month lease terminated prior to Debtor's petition. Accordingly, Huilar wishes to obtain affirmative relief from the automatic stay in order to avoid any risk of violating the automatic stay.

9. The Debtor does not have any equity in the property, as it is leased from Huilar.

10. The residential property is not necessary to an effective reorganization of the Debtor, as it is occupied by a former employee who provides no valuable goods or services to Debtor at this time.

WHEREFORE, Huilar requests the following relief:

- A. The automatic stay as it pertains to the Property be terminated pursuant to §362(d) of the Bankruptcy Code;
- B. The trustee be ordered to abandon the estate's interest in the Property pursuant to §554(b) of the Bankruptcy Code;
- C. Permission from the Court to apply any security deposits towards past due rent; and
- D. Any order entered pursuant to this motion be effective immediately upon its entry; and
- E. For such further relief as may be just and equitable.

