

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WISCONSIN**

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In the Matter of:

In Bankruptcy No.  
16-24179-BEH 11

**GREEN BOX NA GREEN BAY, LLC,**

Debtor.

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**WISCONSIN ECONOMIC DEVELOPMENT CORPORATION'S OBJECTION TO  
DEBTOR'S DISCLOSURE STATEMENT DATED SEPTEMBER 26, 2016**

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Wisconsin Economic Development Corporation ("WEDC"), a creditor and party-in-interest, hereby objects to the Disclosure Statement dated September 26, 2016. Grounds for the Motion are:

**THE DEBTORS' BANKRUPTCY FILING**

1. On April 27, 2016, the Debtor-in-Possession, Green Box NA Green Bay, LLC ("Debtor") filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (*see* Docket, 1).

2. No committee of unsecured creditors has been appointed in this case (*see generally* Docket).

3. No proof of claim deadline has been set (*see generally id.*).

**JURISDICTION AND VENUE**

4. The Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 157 and 1334.

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6. This is a core proceeding under *inter alia* 28 U.S.C. § 157(b)(2).

## LEGAL STANDARDS

7. Title 11 U.S.C. § 1125(b) provides in relevant part,

An acceptance or rejection of a plan may not be solicited after the commencement of the case under this title from a holder of a claim or interest with respect to such claim or interest, unless, at the time of or before such solicitation, there is transmitted to such holder the plan or a summary of the plan, and a written disclosure statement approved, after notice and a hearing, by the court as containing adequate information.

8. Title 11 U.S.C. § 1125(a) provides,

In this section—

- (1) ‘adequate information’ means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed judgment about the plan, but adequate information need not include such information about any other possible or proposed plan and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information; and
- (2) ‘investor typical of holders of claims or interests of the relevant class’ means investor having—
  - (A) a claim or interest of the relevant class;
  - (B) such a relationship with the debtor as the holders of other claims or interests of such class generally have; and
  - (C) such ability to obtain such information from sources other than the disclosure required by this section as holders of claims or interests in such class generally have.

9. Thus, whether a creditor possesses “adequate information” under 11 U.S.C.

§ 1125(a)(1) depends in part on the particular class of which the creditor is a member.

### **WEDC'S OBJECTION**

10. As outlined in WEDC's Motion to Extend Time to Make 1111(b) Election filed contemporaneously herewith:

- a. WEDC is uniquely and virtually solely dependent upon the success of the "Newco" referenced in the Debtor's Disclosure Statement;
- b. WEDC objects to the deficiencies in the Debtor's Disclosure Statement for the reasons stated both:
  - i. In WEDC's Motion; and
  - ii. The Objections to the Debtor's Disclosure Statement filed by any and all other parties herein

(see WEDC's Mot. to Extend Time to Make 1111(b) Election, ¶¶16-19)

11. Although the Debtor has stated additional information and documentation regarding "Newco" will be made available for WEDC, that information has not been provided.

### **RELIEF REQUESTED**

12. WEDC cannot be both: (a) forced to make an informed decision regarding the Debtor's Plan or Newco; and (b) denied relevant information regarding both the Debtor and Newco.

13. For the reasons stated, WEDC respectfully requests that approval of the Debtor's Disclosure Statement be denied.

### **RESERVATION OF RIGHTS**

14. Although it does not intend or believe it should be required to do so, WEDC reserves the right to supplement this Objection in both fact and law.

**CONCLUSION**

**WHEREFORE**, WEDC respectfully requests this Honorable Court sustain WEDC's Objection to the Debtor's Disclosure Statement filed September 26, 2016, deny approval of the Debtor's Disclosure Statement filed September 26, 2016, and grant WEDC any other relief the Court deems equitable and/or appropriate.

Dated this 18th day of October, 2016.

**MURPHY DESMOND S.C.**  
Attorneys for Wisconsin Economic  
Development Corporation

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