

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In re:

GREEN BOX NA GREEN BAY, LLC

Case No. 16-24179

Chapter 11

Debtor.

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**NOTICE OF RENEWED MOTION OF ABILITY INSURANCE COMPANY FOR  
RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U.S.C. §362(d)**

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Ability Insurance Company (“Ability”), by and through its attorneys, Law Firm of Conway, Olejniczak & Jerry, S.C. has filed a motion with the Court for relief from the automatic stay pursuant to 11 U.S.C. §362(d) 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 Ability’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 Ability Insurance Company  
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 20<sup>th</sup> day of April, 2017.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for Ability Insurance Company

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

**POST OFFICE ADDRESS:**

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GREEN BOX NA GREEN BAY, LLC Chapter 11  
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**RENEWED MOTION OF ABILITY INSURANCE COMPANY FOR  
RELIEF FROM AUTOMATIC STAY PURSUANT TO 11 U.S.C. §362(d)**

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Ability Insurance Company (“Ability”) moves the court to grant it relief from the automatic stay with respect to real estate located at 2107 American Blvd., De Pere, Wisconsin (the “Real Estate”). In support of its Motion, Ability states as follows:

**JURISDICTION**

1. This court has jurisdiction over this matter under 28 U.S.C. § 1334.
2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (M).

**BACKGROUND FACTS**

3. Debtor commenced this case by filing a Voluntary Petition for Relief under Chapter 11 of Bankruptcy Code on April 27, 2016 (the “Petition Date”).

4. Ability filed, among other motions, a Motion for Relief from Automatic Stay on May 4, 2016. [Doc. 9]. This Court denied Ability’s Motion for Relief from Automatic Stay on July 27, 2016, but this Court ordered Debtor to make adequate protection payments to Ability in the monthly amount of \$10,247.00. [Doc. 52]. Debtor was to deposit such payments into an escrow account for adequate protection against the accruing real estate taxes. Id.

5. In accordance with the July 27, 2016 Order, Debtor *should have* deposited a total of \$102,470.00 in adequate protection payments between June 28, 2016 and March 28, 2017 (\$10,247.00 per month x 10 months = \$102,470.00). Id.

6. According to Debtor's January Monthly Operating Report, Debtor has failed to deposit the required \$102,470.00 into the escrow account. [Doc. 226]. Instead, the account contains a mere \$51,524.00. Id.

7. This Court confirmed Debtor's Chapter 11 Plan on February 17, 2017. [Doc. 223].

8. The Plan provided for a "roll up" on or before March 31, 2017 and stated that, if the Debtor did not successfully "roll up" by March 31, 2017, the Debtor would immediately consent to this Court's lift of the automatic stay.

9. Debtor did not successfully "roll up" the Plan by March 31, 2017.

**RENEWED MOTION FOR RELIEF FROM STAY**

10. Cause exists for relief from the automatic stay pursuant to Section 362(d)(1) of Bankruptcy Code. Specifically:

- A. Debtor has failed to make adequate protection payments to Ability.
- B. Debtor has no equity in the Real Estate, as evidenced by the terms of the Plan.
- C. Debtor's reorganization attempts have failed, so the Real Estate is no longer necessary for its successful reorganization.
- D. Debtor consented to relief from the automatic stay in the Plan.

Dated this 20<sup>h</sup> day of April, 2017.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorney for Ability Insurance Company

/s/ Michele M. McKinnon

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Michele M. McKinnon (State Bar No. 1041053)

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