

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

In the Matter of:

In Bankruptcy No.
16-24179-BEH 11

GREEN BOX NA GREEN BAY, LLC,

Debtor.

**WISCONSIN ECONOMIC DEVELOPMENT CORPORATION'S
AMENDED MOTION FOR ORDER COMPELLING EXAMINATION
OF LITTLE RAPIDS CORPORATION UNDER RULE 2004**

Wisconsin Economic Development Corporation (“WEDC”), a secured creditor and party-in-interest, pursuant to Federal Rule of Bankruptcy Procedure 2004, respectfully requests an Order from the Court compelling Little Rapids Corporation (“Little Rapids”) to appear in accordance with the proposed Order attached hereto. Grounds for this Motion are:

WEDC’S SECURITY AND LIEN PRIORITY

1. Prior to the filing of this case, Dr. Marco Araujo (“Araujo”), upon information and belief and as evidenced by his Proof of Claim No. 16, held a first lien security interest in the following personal property of the Debtor, Green Box NA Green Bay, LLC (“Debtor”):

Mayfran Conveyor 9853016, Action Tapor Slot 1576, Eriez Suspended Magnet 57551, Eriez Eddie Current 57552, Air Classifier 00487-62, Trash Exit Conveyor 4732-00, 60" Glass Sort Conveyor N/A, Lights Sort Belt S-36 4200, 19" Fines Belt N/A, 24" Trough Belt N/A, 36" Trough Belt N/A, 24" Trough Belt N/A, 5 Bunker Door Winches Dalton, Bunker walls, Bins, perforated screen, (3) w/stand, Aluminum Can Blower 4532-99, Ferrous Exit Conveyor T-24 4200, REM Fiber Infeed L-60 4200, REM Transition Belt 1-36 4200, Control panel, Electric,
Misc: Supports, structure, doors, catwalks, handrails, chutes, floor plates, ladders, and guards that are part of the commingled system.

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(“Former Araujo Property”).

2. Upon information and belief Araujo’s security interest in the Former Araujo Property was perfected with the Wisconsin Department of Financial Institutions as follows:

General Information

Filing Office	DFI
Filing Number	110004301008
Filing Type	INITIAL FINANCING
Status	Inactive
Effective Date-Time	4/11/2011 8:50:00 AM
Expires	4/11/2016

Debtor(s) of Record
GREEN BOX NA GREEN BAY, LLC
2077B LAWRENCE DR.
DE PERE, WI 54115
USA

Secured Party(s) of Record
ARAUJO, MARCO
2595 DEVELOPMENT DR.,
SUITE 150
GREEN BAY, WI 54311
USA

Filing History
None: Original filing only.

3. Araujo’s perfection in the Former Araujo Property lapsed on or about April 12, 2016, or prior to the filing of this Chapter 11 bankruptcy case on April 27, 2016.

4. Counsel for the Debtor was aware of the lapse of Araujo’s perfection in the Former Araujo Property no later than November 28, 2016, as the undersigned counsel provided counsel for the Debtor proof of same via e-mail on that date.

5. As evidenced by the proofs of claim filed herein, including but not limited to WEDC’s Proof of Claim No. 14, as well as Article 2.1 of the Debtor’s revised Third

Amended Chapter 11 Plan filed December 22, 2016 (“Plan”) (*see* Docket 183 at 6-8), following the lapse of Araujo’s perfection in the Former Araujo Property, WEDC now holds a properly-perfected first lien position in the Former Araujo Property.

THE DEBTOR AND LITTLE RAPIDS’ MISREPRESENTATIONS

6. On May 10, 2016, the Debtor filed a Schedule B and D under penalty of perjury indicating that the Former Araujo Property was situated as follows:

**Describe debtor's property that is subject to a lien
sorting line - set up at 927 Parkview, DePere,**

(*see* Docket 14 at 14).

7. On January 18, 2017, the Debtor and Little Rapids filed a Stipulation (“Stipulation”) as to the property located at 821 Parkview Road, Ashwaubenon, Wisconsin (“Warehouse”) and various creditors or other parties in interest who purportedly claimed an interest in the personal property located therein (*see* Docket 198, ¶1 & Ex. A).

8. WEDC was not listed as a secured creditor or party in interest on the Stipulation’s Exhibit A.

9. WEDC had no reason to question, object, or otherwise respond to the Stipulation, because, among other things: (a) neither WEDC nor Araujo were listed as a creditor or party in interest on the Stipulation’s Exhibit A; and (b) the location of the affected personal property in the Stipulation was an entirely different fire address than where the Former Araujo Property was represented by the Debtor to be located on its Schedules B and D.

WEDC'S EFFORTS

10. Since confirmation of the Debtor's Plan, both the Debtor and Little Rapids have represented that all or substantially all of the Debtor's personal property located in the Warehouse has been surrendered to Little Rapids and subsequently transferred to a third party (*see* Docket 255, ¶7).

11. WEDC has attempted for months to obtain particulars regarding the alleged surrender, both from counsel the Debtor and Little Rapids, and both in writing and verbally; in response, WEDC has received only partial information.

NECESSITY AND URGENCY OF WEDC'S REQUEST

12. A hearing ("Hearing") on WEDC's Objection ("Objection") (*see* Docket 259) to the Debtor's Motion to Modify Plan (*see* Docket 255) has been re-scheduled from July 26, 2017, to July 24, 2017.

13. In addition to continuously and actively participating in this case since at least May 12, 2016 (*see, e.g.*, Docket 23), Little Rapids has requested and been granted permission to appear at the Hearing (*see* Docket 272 & 274); therefore, there is no surprise or lack of jurisdiction.

14. One of the bases for WEDC's Objection is the alleged disposition of substantially all of the Debtor's personal property.

15. Little Rapids holds important and/or valuable information relating to the alleged disposition of substantially all of the Debtor's personal property.

16. WEDC will be unnecessarily and perhaps irreparably prejudiced if it is unable to receive additional information regarding the Former Araujo Property and the Debtor's other personal property prior to Hearing.

FEDERAL RULE OF BANKRUPTCY PROCEDURE 2004

17. Federal Rule of Bankruptcy Procedure 2004(a) provides that the examination of any entity may be ordered.

18. The scope of any entity under Rule 2004 may relate to any and all of the following:

- Acts, conduct, property, liabilities, or financial condition of the debtor,
- Any matter affecting administration of the debtor's estate,
- Operation of any business and the desirability of its continuation,
- Source of money or property acquired or to be acquired for plan consummation and the consideration given or offered therefor, and
- Any other matter relevant to the case or to the formulation of the plan.

(Fed. R. Bankr. P. 2004(b)).

19. As required by Fed. R. Bankr. P. 2004(e), contemporaneous with the filing of this Motion, a check payable to Little Rapids for mileage in the amount of \$102.75 is being sent by WEDC to counsel for Little Rapids via overnight delivery.

RELIEF REQUESTED

20. WEDC respectfully requests that the attached Order be immediately entered.

RESERVATION OF RIGHTS

21. Although it does not intend or believe it is necessary to do so, WEDC reserves the right to supplement this Motion in both fact and law.

CONCLUSION

WHEREFORE, WEDC, for the reasons stated herein and on or to be on the record in this case, respectfully requests the Court grant WEDC the relief requested in this Motion and any other relief in this matter deemed fair and/or equitable, including but not limited to its attorneys' fees and costs.

Dated this 19th day of July, 2017.

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

By: /s/ Brian P. Thill
Brian P. Thill,
Wisconsin State Bar No. 1039088

EXHIBIT 1 – PROPOSED ORDER

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

In the Matter of:

In Bankruptcy No.
16-24179-BEH 11

GREEN BOX NA GREEN BAY, LLC,

Debtor.

**ORDER GRANTING WISCONSIN ECONOMIC DEVELOPMENT
CORPORATION’S MOTION FOR RULE 2004 EXAMINATION
OF LITTLE RAPIDS CORPORATION**

Based upon the files and proceedings herein had, including but not limited to the Motion filed by Wisconsin Economic Development Corporation (“WEDC”) for Order Compelling Examination of Little Rapids Corporation (“Little Rapids”) under Rule 2004, and it appearing good cause so exists,

IT IS ORDERED:

Little Rapids shall appear on appear on July 21, 2017 at 9:00 a.m. Central, or such other date as may be mutually agreed to between counsel for WEDC and Little Rapids, at the Dodge County Justice Facility, Second Floor, Judicial Reception Area, 210 West Center Street, Juneau, Wisconsin 53039, and submit to an examination under oath pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure as to all of the following:

- All personal property of the Debtor, Green Box NA Green Bay, LLC (“Green Box”), currently or formerly located or 821 or 927 Parkview Road, De Pere, Wisconsin, as well as the following:

Mayfran Conveyor 9853016, Action Tapor Slot 1576, Eriez Suspended Magnet 57551, Eriez Eddie Current 57552, Air Classifier 00487-62, Trash Exit Conveyor 4732-00, 60" Glass Sort Conveyor N/A, Lights Sort Belt S-36 4200, 19" Fines Belt N/A, 24" Trough Belt N/A, 36" Trough Belt N/A, 24" Trough Belt N/A, 5 Bunker Door Winches Dalton, Bunker walls, Bins, perforated screen, (3) w/stand, Aluminum Can Blower 4532-99, Ferrous Exit Conveyor T-24 4200, REM Fiber Infeed L-60 4200, REM Transition Belt 1-36 4200, Control panel, Electric, Misc: Supports, structure, doors, catwalks, handrails, chutes, floor plates, ladders, and guards that are part of the commingled system.

(collectively, "Property"); and

- The terms and/or current status of any actual or proposed surrender, sale, or other arrangement since January 1, 2017 involving any portion of the Property and any party, including but not limited to Little Rapids Corporation, Debtor, Tony Hayes, or Hayes Salvage.

WEDC shall deliver to Little Rapids not less than \$102.75 prior to the time of any examination, as required by Fed. R. Bankr. P. 2004(e).

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AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
) ss
COUNTY OF DANE)

Rachel Campbell, a legal assistant in the office of Murphy Desmond S.C., attorneys for Wisconsin Economic Development Corporation (“WEDC”), being first duly sworn under oath, states as follows: On July 19, 2017 a copy of WEDC’s Amended Motion for Order Compelling Examination of Little Rapids Corporation (“Little Rapids”) under Rule 2004, including any exhibit, and this Affidavit of Service were caused to be electronically served on counsel for Little Rapids, the Debtor, Office of the United States Trustee, and all other parties appearing herein.

Subscribed and sworn to before me this
19th day of July, 2017.

/s/ Rachel Campbell
Rachel Campbell

/s/ Brian P. Thill [notary seal]
Brian P. Thill
Notary Public, State of Wisconsin
My Commission is Permanent

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