



THE FOLLOWING ORDER  
IS APPROVED AND ENTERED  
AS THE ORDER OF THIS COURT:

DATED: November 1, 2017

A handwritten signature in black ink, appearing to read "Beth E. Hanan".

Beth E. Hanan  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF WISCONSIN**  
Court Minutes and Order

CHAPTER: 11  
DATE: November 1, 2017  
JUDGE: Beth E. Hanan  
CASE NO.: 16-24179  
DEBTOR: Green Box NA Green Bay, LLC  
NATURE OF HEARING: (1) Ability Insurance Company's motion for relief from stay or, in the alternative, dismissal and (2) Paper Holdco LLC's motion to dismiss  
APPEARANCES: Nicholas Hahn, appearing for the debtor-in-possession  
Michele McKinnon, for Ability Insurance Company  
Angela Dodd, for the Securities and Exchange Commission  
Brittany Ogden, for Clifton Equities, Inc.  
Brian Thill, for Wisconsin Economic Development Corporation  
Jonathan Smies, for Crossgate Partners, LLC and Advanced Resources Materials, LLC  
Christopher Camardello, for Varde/Paper Holdco, LLC  
Laura Steele, for the United States Trustee  
COURTROOM DEPUTY: Betsy Skibicki  
LAW CLERK: Meaghan Burnett

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The court held a joint hearing on Ability's motion for relief from stay or, in the alternative, dismissal (CM-ECF, Doc. No. 301), filed on October 3, 2017, and Paper Holdco LLC's motion to dismiss (CM-ECF, Doc. No. 306), filed on October 5. On October 17, the debtor filed a consent to the motions to dismiss (CM-ECF, Doc. No. 317). WEDC filed a limited objection to the motions on October 26 (CM-ECF, Doc. No. 330), arguing for conversion, rather than dismissal. Just prior to the hearing, Paper Holdco, LLC joined in WEDC's request for conversion, rather than dismissal (CM-ECF, Doc. No. 335).

Ability's request for relief from the stay

The court concluded that Ability was no longer subject to the automatic stay by virtue of confirmation of the debtor's plan, *see* 11 U.S.C. section 1141, as well as the express terms of the plan, Article 4.1. The court will enter an order acknowledging that there is no automatic stay in effect, to allow Ability to proceed with a foreclosure action in state court. Attorney McKinnon will upload a proposed order.

Requests for dismissal vs. conversion

Counsel for the debtor and Ability argued that dismissal was in the best interest of the creditors and the estate and that conversion would serve no purpose. Counsel for WEDC and Paper Holdco argued in favor of conversion. The other parties participating in the hearing voiced no position on either option.

The court questioned what property would exist in a chapter 7 estate for a trustee to administer if this case were converted. Under 11 U.S.C. section 1141(b), the confirmation of the plan in this case vested all of the property of the estate in the debtor; conversion will not re-vest any of that property in a chapter 7 estate, *see* 11 U.S.C. section 348. Attorney Thill suggested that there may be fraudulent transfers and preferences that a chapter 7 trustee could discover. Attorney Hahn claimed that the existence of such transfers was mere speculation. The court cautioned Attorney Thill that he would need to provide facts to support his argument, citing *In re T.S.P. Indus., Inc.*, 120 B.R. 107, 111 (Bankr. N.D. Ill. 1990) ("Neither the motion to alter the Court's prior judgment nor the original motion to convert or dismiss should be used as a pretext for a fishing expedition, especially when the lake looks so barren. The mere possibility that a claim might be found is not reason enough to convert a case, appoint a trustee and incur administrative expenses that will almost certainly never be paid. That result would not be in the best interests of creditors or the estate.").

The court considered and decided against holding an evidentiary hearing, but stated that it would consider the matter on briefs, which may include evidentiary affidavits. Based on the discussion at the hearing, both movants (Ability and Paper Holdco) consented to the continuance of the matter past the 15-day deadline in which the court ordinarily must issue a decision on a motion to dismiss, *see* 11 U.S.C. section 1112(b)(3), to allow the parties to brief the issue. Accordingly, the court ORDERED the following briefing schedule:

1. Briefs by WEDC and Paper Holdco arguing in favor of conversion must be filed by **November 20, 2017**.
2. Responses by any parties advocating dismissal rather than conversion must be filed by **December 4, 2017**.
3. Reply briefs by WEDC and Paper Holdco must be filed by **December 11, 2017**.

The court will issue a ruling on the matter once briefing is concluded. An electronic recording of the hearing can be found on the docket.

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