



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

DATED: November 21, 2017

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

Beth E. Hanan
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In the matter:

Green Box NA Green Bay, LLC,
Debtor-in possession.

Case No. 16-24179-beh
Chapter 11

ORDER CLARIFYING SCHEDULING ORDER

The court held a hearing on several matters in this case on November 1, 2017. Ability Insurance Company had filed a motion for relief from stay or alternatively for dismissal. Paper Holdco, LLC had filed a motion to dismiss. The debtor filed a consent to dismissal.

WEDC filed a Limited Objection, specifically asking for conversion instead of dismissal. On the morning of the November 1 hearing, Paper Holdco filed an amendment to its own motion, asking, as had WEDC, for conversion instead of dismissal.

The court and parties discussed all of this at the hearing. Ability obtained relief from the stay. The debtor urged dismissal, rather than conversion. WEDC asked for the opportunity to present evidence regarding its request for conversion. Ultimately, the court agreed to briefing on only the question of conversion versus dismissal. Accordingly, in the minutes and order flowing from that hearing, the court set out 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.

On November 20, the date on which briefs in favor of conversion were due, Paper Holdco filed a withdrawal of its motion to dismiss, and its request for conversion. Shortly thereafter, WEDC filed correspondence asking the court for confirmation that the briefing schedule was still operative in light of the withdrawal of Paper Holdco's motion. WEDC subsequently filed its brief in favor of conversion, along with supplemental correspondence indicating that it would be able to file a motion to convert in the future if the briefing schedule had been mooted by the withdrawal of Paper Holdco's motion.

At the November 1 hearing in this matter, the parties and the court spent a fair amount of time discussing WEDC's theory about the merits of conversion over the court's inclination toward dismissal, and ultimately the court allowed WEDC (and at that point, Paper Holdco) to brief the issue of the benefit to creditors of conversion. The court essentially treated WEDC's Limited Objection as a motion to convert, and set its briefing schedule to address the conversion request specifically, with WEDC, as the "movant," having the opportunity to file the first brief, as well as a reply.

Given the procedural posture of this case—in which Ability's and Paper Holdco's motions to dismiss are no longer pending—the court will clarify its intent at the November 1 hearing: the court construes WEDC's Limited Objection as a motion to convert this case to a chapter 7 case, under 11 U.S.C. § 1112(b)(1).

Accordingly, the court ORDERS that its November 1 briefing schedule remains in effect. In light of the withdrawal of Paper Holdco's motion, however, Paper Holdco is not expected to brief the matter.

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