

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

In re:

PANTHERA ENTERPRISES, LLC,

Chapter 7

Debtor.

BK No. 2:19-bk-00787

**OBJECTION OF TR&L, LLC AND SMI, LLC TO WEST VIRGINIA ECONOMIC
DEVELOPMENT AUTHORITY'S MOTION FOR RELIEF FROM THE AUTOMATIC
STAY TO FORECLOSE AGAINST THE DEBTOR'S REAL PROPERTY, TOGETHER
WITH ALL FIXTURES, BUILDINGS AND IMPROVEMENTS THEREON, AT 2506 FISH
POND ROAD, OLD FIELDS, HARDY COUNTY, WEST VIRGINIA [DOC. 310]**

Now come TR&L, LLC ("**TR&L**") and SMI, LLC ("**SMI**"), by and through counsel, and object to the *West Virginia Economic Development Authority's Motion for Relief from the Automatic Stay to Foreclose Against the Debtor's Real Property, Together with All Fixtures, Buildings and Improvements Thereon, At 2506 Fish Pond Road, Old Fields, Hardy County, West Virginia* [Doc. 310] (the "**Motion**"). In support of their objection, TR&L and SMI incorporate by reference the factual allegations contained in the Counterclaim filed in Adversary Proceeding No. 21-ap-0002 (the "**Counterclaim**"), and the *Objection of TR&L, LLC AND SMI, LLC to Chapter 7 Trustee's Motion for an Order Approving the Sale of the Debtor's Real Property and Novating Certain Government Contracts Free and Clear of Liens, Claims, Interests, and Encumbrances Pursuant to 11 U.S.C. § 363* [Doc. 325] ("**TR&L's Objection**") In further support of their objection, TR&L and SMI state as follows:

1. TR&L claims an interest in the “Modular Units” described in the Motion. In fact, TR&L owns the Modular Units described in the Motion, and thus the Motion must be denied, to the extent that it asserts rights with respect to the Modular Units.

2. As described in the Counterclaim, the Trustee’s Sale Motion, and TR&L’s Objection, the 38 Modular Units are listed as personal property in the Debtor’s bankruptcy schedules.

3. Responding to ¶14 of the Motion, TR&L and SMI deny that the Modular Units are covered by the WVEDA’s lien, and affirmatively state that the Modular Units remain as mobile today as the day that they were delivered onto the Debtor’s property. Further, that the Modular Units can be removed from the Debtor’s property without causing damage to either the Modular Units or the real property itself.

4. Upon information and belief, (i) the undercarriages of the Modular Units sit on concrete piers and concrete blocks are used to level the modular units; (ii) the concrete piers are necessary to provide stability for freeze thaw and to avoid shifting and tilting of the units; (iii) metal straps and augers are used with all Modular Units for wind abatement; (iv) the Modular Units are attached with plastic pipes to the water system, which can simply be cut prior to moving the Units; (v) the Modular Units have no permanent perimeter foundation, only skirt boards to keep animals out.

5. Responding to ¶24 of the Motion, TR&L and SMI state that the timber rights granted to SMI (which have now been assigned to TR&L) were subject to WVEDA’s prior trust deeds, and thus the value of the timber rights in March, 2018 must be substantially discounted to derive their present value on that date.

WHEREFORE, TR&L LLC and SMI, LLC request this Court to deny the WVEDA’s Motion, to the extent that it asserts rights with respect to the Modular Units, together with such other and further relief as equity requires and as the Court deems proper.

TR&L, LLC, and SMI, LLC

By Counsel,

/s/ Steven L. Thomas

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing ***Objection of TR&L, LLC and SMI, LLC to West Virginia Economic Development Authority's Motion for Relief from The Automatic Stay To Foreclose Against The Debtor's Real Property, Together With All Fixtures, Buildings And Improvements Thereon, At 2506 Fish Pond Road, Old Fields, Hardy County, West Virginia [DOC. 310]*** was filed and served via the Court's CM/ECF system on this the 21st day of April, 2021.

/s/ Steven L. Thomas
Steven L. Thomas (WVSB #3738)