

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

BAYLAND BULIDINGS, INC.

Plaintiff,

v.

Case No.: 2024CV000519

FOX VALLEY PRO BASKETBALL, INC., et al.

Defendants.

RESPONSE TO RECEIVER'S LIST OF PURPORTED CREDITORS

Fox Valley Pro Basketball, Inc. ("Debtor") responds as follows to the Receiver's List of Purported Creditors filed by Paul G. Swanson, the duly appointed receiver of Fox Valley Pro Basketball, Inc. ("Receiver").

The Receiver was appointed in this case pursuant to an order entered June 5, 2024 (the "Receivership Order"). At the request of the Receiver, the Debtor provided counsel for the Receiver a list of all creditors on June 27, 2024. In fact, the Debtor provided the Receiver with two lists of creditors both the list from the prior chapter 11 filing and a list of creditors since the Debtor's chapter 11 case.

On July 2, 2024, after receipt of the list of creditors from the Debtor, counsel for the Receiver emailed the undersigned maintaining that "the statute" requires a verified list. Debtor's counsel requested the statutory authority relied upon for the Receiver's position. In response, Receiver's counsel cited Wis. Stat. § 128.13. Debtor's counsel replied that there is no indication that this case is a proceeding under Chapter 128. There was no assignment for the benefit of creditors made by the Debtor under Section 128.02. There was no finding made by the Court that the Debtor has been dissolved or is insolvent, and there is no mention in the pleadings of any

specific statute under Chapter 128. The motion for appointment of receiver cites only to Section 813.02(1) and 813.025(2), and has nothing to do with Chapter 128. Incidentally, neither of the cited sections under Chapter 813 allow for the appointment of a receiver.

Debtor's counsel went on to explain that it appears from the pleadings and the Court's Order that the Receiver was through an equitable appointment outside of Chapter 128. While the order appointing the Receiver references Chapter 128 regarding the scope of his powers, the pleadings do not raise a claim under Chapter 128 and there is no order otherwise subjecting these proceedings to Chapter 128.

In response, Receiver's counsel did not dispute that these proceedings are not subject to Chapter 128. Rather, the Receiver responded that he would use the list of creditors provided by the Debtors. Yet, the Receiver's List of Purported Creditors states that "Debtor's counsel has refused to provide a verified list." At no point did the Debtor, or Debtor's counsel refuse to provide a verified list. Instead, Debtor's counsel questioned the basis for the demand and the Receiver decided to proceed with the lists of creditors already provided.

The Receiver's statement to the contrary has created false reports in the media that the Debtor's owners refused to provide the Receiver with financial information regarding creditors. Including inaccurate headlines such as "Oshkosh Arena receiver unable to determine debt owed." In fact, the Debtor's owners have cooperated with the Receiver to provide access to all the financial information, including creditors. No persons have worked harder than the Debtor's staff and ownership group to make the Oshkosh arena a reality. They have invested a substantial amount of their time and money to bring a premier entertainment venue to the community. That same group continues its efforts, including cooperating with the Receiver, in hopes that the arena will reach financial stability and continue to bring entertainment to the City of Oshkosh and neighboring communities.

Dated: August 26, 2024.

/s/ Evan P. Schmit

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