MAR - 2 2009

Dav. Co. Chancery Court

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, *ex rel.* LESLIE A. NEWMAN) in her official capacity as COMMISSIONER OF) COMMERCE AND INSURANCE, on behalf of) the employees of Norwalk Furniture Corporation of) Tennessee (aka Norwalk Wood Products Division) for) Tennessee self-insured workers' compensation) benefits,)

Petitioner,)

vs.)

MIDWEST EMPLOYERS CASUALTY COMPANY,) A Missouri domiciled insurance company, and) NORWALK FURNITURE CORPORATION OF) TENNESSEE, A Tennessee domiciled corporation.)

Respondents.)

Re: Bond for Workers' Compensation Self-Insurance of) Norwalk Furniture Corporation of Tennessee – for claims) incurred January 1, 1992 to July 1, 2007.)

COPY

No. 09-384-III

CS

D.C.&M.

COPY

CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

2009 MAR -3 AM 10: 07

FILED

ORDER TO SHOW CAUSE, SPECIALLY SETTING AN EARLY HEARING ON THE PETITION FOR ORDER REQUIRING BOND COMPANY TO PAY BOND PENALTY SUM AND TO DISCHARGE BOND, FOR ORDER OF ADMINISTRATION OF BOND FUND AND INJUNCTIVE RELIEF; and TEMPORARY ORDER PERMITTING COMMISSIONER TO EXPEND CERTAIN BOND PROCEEDS FOR ONGOING BENEFITS; and STAY OF WORKERS' COMPENSATION PROCEEDINGS

This order is made upon ex parte consideration of the Verified Petition of the Commissioner of Commerce and Insurance to require Bond Company Midwest Employers Casualty Company to Pay Bond Penalty and to Discharge Bond, and Order of Administration of Bond Fund and Related Injunctions, etc., respecting a Bond that secures workers' compensation self-insurance liability of Norwalk Furniture Corporation of Tennessee (Norwalk/TN) under Tenn. Code Ann. § 50-6-405 and the Request for Early Hearing and Relief, together with supporting exhibits ("Verified Petition"), filed with the Court. This Court FINDS:

1) that such Verified Petition alleges that Norwalk/TN, a former Tennessee employer stopped paying any self-insured workers' compensation benefits in October 2008, and requests payment of the proceeds of bond for the outstanding self-insured Tennessee workers' compensation liability and equitable injunctive relief so that claims may be administered under the supervision of this Court; and further that the Commissioner attests that she holds a Bond of Midwest Employers Casualty Company (MWECC) for a total of $500,000.00, of which $7500 was demanded and received by the Commissioner out of the Bond to meet the payment of immediately owing workers' compensation benefits, that the Petition sets forth a reasonable, feasible, and compelling request to continue the Commissioner's temporary authority to administer such funds on hand to authorize and pay for temporary medical benefits and other immediate benefits in ordinary course to prevent irreparable harm to the employees, to stand until further order of this Court after entry of an order after hearing on the Verified Petition;

2) that the Respondent MWECC is a bonding company that should promptly respond whether it agrees with the relief requested in the Verified Petition that the bond penalty sum should be paid over to the Commissioner to supply Norwalk/TN's outstanding workers compensation benefits and to fully discharge the Bond, and both MWECC and Norwalk/TN should be given an opportunity to respond whether there is any objection to the injunctive relief and administrative receivership procedure of the Commissioner for use of the bond proceeds set forth in the Verified Petition;

3) that affected Norwalk/TN employees are not required by the Verified Petition to answer the Petition in order to claim on the funds to be held by the Commissioner, but will be affected by the plan as to how and by whom the Bond will be administered, but that it is

appropriate that any activity in their claims should be stayed pending the ruling on the administration of the Bond, and

4) that the Commissioner's request for an expedited hearing on the Verified Petition should be granted to assess quickly whether the Bond penalty sum shall be paid over by MWECC leading to discharge of the MWECC bond, and whether Norwalk/TN has any opposition to that relief, or to cooperation with the resulting administration of the Bond Fund, any interested parties oppose the Verified Petition to set up the procedure for receiving claims for Norwalk/TN's Tennessee workers' compensation benefits.

Accordingly, a prompt hearing is appropriate in this matter and good cause has been established for the following order:

IT IS HEREBY ORDERED THAT the hearing on the Verified Petition shall be heard on Thursday, March 26, 2009 at 9:30 (central time) in Part III of this Davidson County Chancery Court, Metro Courthouse, Courthouse Square, Nashville, TN, to consider whether this Court should grant the Petition, to administer funds, as set forth in the Prayer of the Commissioner's Petition, and the related injunctions to protect the administration of the Bond Funds. At such time the Respondents or any persons who may wish to object to the procedure to administer this case shall show cause why the Order should not be granted as requested by the Commissioner. The Court will not determine any specific person's entitlement to an award of benefits from the fund to be held by the Commissioner at this hearing, but only whether the requested administrative relief will be granted. Any objections should be filed in writing prior to the hearing with the Clerk & Master of this Court before the close of business on Monday, March 23, 2009, and a copy delivered to the counsel for the State, Sarah A.

Hiestand, Senior Counsel, Financial Division, Attorney General's Office, P.O. Box 20207, Nashville, TN 37202.

IT IS FURTHER TEMPORARILY ORDERED, that, until an order is entered by this Court ruling upon the Verified Petition, the Commissioner shall be permitted to continue to administer such funds that she already possesses from the bond, or which may be paid by MWECC, to authorize and pay for temporary medical benefits and other previously authorized immediate benefits in ordinary course to prevent irreparable harm to the employees, and to seek records and data as needed for this proceeding;

IT IS FURTHER TEMPORARILY ORDERED, that, until any further order is entered by this Court ruling upon the Verified Petition and adopting a specific plan for administration of the Bond, any state workers' compensation actions or proceedings with respect to self-insured claims of Norwalk/TN's employees shall be stayed, so as to protect the orderly Bond administration that is being sought in the Verified Petition from the irreparable harm of potentially undefended actions, and the Commissioner shall cause notice of this temporary order to be given to any person or entity that is learned to be taking or attempting to take such action.

Notice by copy of this Order setting Hearing and the Verified Petition shall be served by Petitioner's counsel on each Respondent and notice parties set forth in the Service list to the Petition. Proof of service shall be filed at or before the hearing date by Petitioner's counsel.

IT IS SO ORDERED.

Ellen Hobbs Lyle
CHANCELLOR

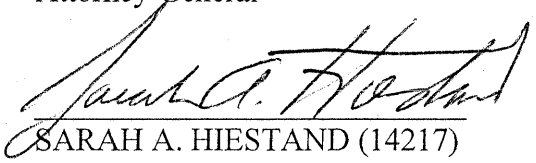
Date issued 3-3-09

Cristi Scott, Clerk & Master

Deputy Clerk & Master

Approved for entry by:

ROBERT E. COOPER, JR.
Attorney General



SARAH A. HIESTAND (14217)
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Attorney for Petitioner Leslie A. Newman,
Commissioner, Tennessee Department of Commerce and Insurance

Certificate of Notice of Ex Parte Order:

I certify that I gave prior notice of presenting the foregoing Order to the Respondents by email transmittal or attempted fax where indicated of the proposed Order and Verified Petition, and by telephone call where indicated, on the 27th day of February, 2009 before 3 p.m., and have mailed by United States mail to all the following interested parties this 27th day of February, 2009:

Respondent MWECC
Counsel Thomas Sandifer, via email and mail
Tennessee counsel, Aubrey Brown, via email and mail

Respondent Norwalk Furniture Corporation of Tennessee
Unable to reach Norwalk Furniture Corporation of Tennessee
Attempted fax to 931-432-4176. The fax was unable to transmit to this number.
Attempt phone call to listed phone number at 931-432-4171. This phone number has been disconnected and out of service. It is believed the official office has shut down.

Counsel to Respondent MWECC
Thomas L. Sandifer
Claims Attorney
Midwest Employers Casualty Company
14755 North Outer Forty Drive, Suite 300
Chesterfield, MO. 63017
Direct Dial 636-449-7148
Tsandifer@mwecc.com

Aubrey L. Brown, Esq.
Glankler Brown
One Commerce Square, Ste 1700
Memphis, TN 38103
Direct Dial 901-576-1710, fax 901-525-2389
abrown@glankler.com

Norwalk Furniture Corporation of Tennessee
ATTN: George Elmer, Registered Agent and President
1100 S. Willow Avenue
Cookeville, TN 38501-4139 Secretary of State Registered Agent
Ph. – 931-432-4171, fax 931-432-4176

Norwalk Furniture Corporation of Tennessee
P.O. Box 3067
Cookeville, TN 38502-3067
Ph. – 931-432-4171, fax 931-432-4176 Address of record with Department
Tenn. Code Ann. § 50-6-405(b)(5)

Attorneys involved in pending workers' compensation litigation:
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Phone 931-528-6403; fax 931-520-1628
Attorney for claimant employees Darrell Denney, and Clarence Grider

VIA EMAIL TO:
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Phone: 931-526-3311, fax 931-526-3092
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Norwalk/TN's defense counsel in workers' compensation cases.

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Attorney for Kenneth D. Lane

VIA Telephone call and EMAIL TO:
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Cookeville, TN 38501
931-520-3802; jdshock@frontiernet.net

VIA EMAIL TO:
Brentwood Services Administrators, Inc.
104 Continental Place, Suite 200
Brentwood, Tennessee 37027
ATTN: Everett Sinor
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Everett.Sinor@bwood.com
Norwalk/TN's Third Party Administrator

VIA Telephone call to Claimant:
Kenneth D. Lane
480 Jack Ridge Lane
Bloomington Springs, TN 38545
931-653-4381

Mailing to counsel only, for claimant:
Darrell J. Denney
396 Jaybird Road
Monroe, TN 38573
931-823-7562

Mailing to counsel only, for claimant:
Clarence R. Grider
4842 Hickey Ridge Road
Baxter, TN 38544
931-858-2536

SARAH A. HIESTAND