

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)
SALDUTTI LAW GROUP
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Counsel for Creditor EASTERN LIFT
TRUCK CO INC.

In Re:

ALUMINUM SHAPES, LLC,

Debtor.

Case No.: 21-16520-JNP

Chapter: 11

Hrg Date: October 27, 2021 at 1:00PM

Judge: Hon. Jerrold N. Poslusny, Jr.

**EASTERN LIFT TRUCK CO INC.'S OBJECTION TO CONFIRMATION OF
DEBTOR'S CHAPTER 13 PLAN**

NOW COMES EASTERN LIFT TRUCK CO INC., by and through counsel, Saldutti Law Group, and for its Objection to Debtor's Motion to Sell Property Free and Clear of Liens under Section 363(f) ("Sale Motion") sets forth as follows.

1. Eastern Lift Truck Co., Inc. ("Eastern") is a secured creditor of Debtor Aluminum Shapes, LLC ("Debtor") by virtue of a judicial lien on real property.
2. Specifically, on October 19, 2020, judgment was entered in favor of Eastern and against Debtor in the amount of \$72,832.61 including taxed costs ("Judgment"). See Exhibit A.
3. The Judgment was docketed as a statewide lien on all real property of Debtor on November 10, 2020, at J-099950-20 ("Judicial Lien"). See Exhibit B.
4. Debtor filed the instant bankruptcy case on August 15, 2021 ("Petition Date").

5. Debtor is the owner of real property located at 9000 River Rd., Delair, New Jersey (“Real Property”).

6. Debtor’s Schedules value the Real Property at \$20,900,000.00.

7. The Real Property is not subject to any mortgages.

8. Eastern’s Judicial Lien was recorded prior to any other judicial liens on the Real Property. See Exhibit C.

9. The Real Property is subject to municipal liens and property tax liens of approximately \$1.4 million.

10. The value of the Real Property is sufficient to pay Eastern’s secured claim in full.

11. Eastern filed its claim, Claim No. 25, on September 13, 2021 in the amount of \$75,239.13 representing the balance due on the Judgment plus post-judgment interest to the Petition Date (“Claim”).

12. On September 14, 2021, Debtor filed the Sale Motion, which proposes to sell all or substantially all assets of Debtor, including the Real Property.

13. On September 30, 2021, the Court approved the bidding procedures for the Sale.

14. The deadline for bids was October 22, 2021.

15. The auction was held on October 25, 2021.

16. Pursuant to 11 U.S.C. § 363(f), a debtor-in-possession may sell property of the estate free and clear of liens only if 1) applicable non-bankruptcy law permits the sale free and clear; 2) the lienholder consents; 3) the property will be sold for a price greater than all aggregate liens on the property; 4) the lien is in bona fide dispute; or 5) the lienholder could be compelled in a legal or equitable proceeding to accept monetary satisfaction of the lien.

17. Eastern does not consent to the sale of the Real Property unless Eastern's Claim is paid in full.

18. There is no non-bankruptcy law that would permit Debtor to sell the Real Property free and clear of Eastern's lien.

19. Debtor has not established the existence of a bona fide dispute with respect to the lien.

20. There is no legal or equitable proceeding that could compel Eastern to accept monetary satisfaction of the lien.

21. The auction in this case took place on October 25, 2021; however, Debtor has not filed the results on the docket and therefore, Eastern files this Objection to protect its rights in the event the proposed distribution of proceeds does not include payment of its claim in full.

Wherefore, Eastern Lift Truck Co., Inc. respectfully requests that Debtor's Motion to Sell be denied unless Eastern's claim is paid in full.

Respectfully submitted,
SALDUTTI LAW GROUP
Counsel for Eastern Lift Truck Co., Inc.

/s/ Rebecca K. McDowell
REBECCA K. MCDOWELL, ESQ.

Dated: October 26, 2021