

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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In re: Window Select LLC  
Debtors.

Chapter: 11  
Case No: 23-20646-gmh

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WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT'S  
OBJECTION TO DEBTORS' PLAN OF LIQUIDATION

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The Wisconsin Department of Workforce Development, by its attorney, Assistant Attorney General, Michael D. Morris, objects to the Debtor's Plan of Liquidation of the Debtor Dated July 18, 2023 (Dkt 263), pursuant to Sections 1129 and 1191 of the Bankruptcy Code, for the following reasons:

1. The Department filed a proof of claim in these proceedings on May 1, 2023, in the amount of \$18,754.87 for priority, unpaid employee wages and benefits under Bankruptcy Code section 507(a)(4). Claim No. 55-1 (the "Claim"). The Claim is also secured by virtue of the UCC filing attached to the claim.
2. According to the Claim's attachments, on March 16, 2023, the Department issued a final determination determining that the Debtor and Justin Kiswardy violated Wisconsin's wage law, Wis. Stat. chapter 109, by failing to pay employee wages and benefits totaling \$18,754.87.
3. The Debtor has not objected to the Claim.
4. The Debtor filed a Plan of Liquidation on July 18, 2023. (Dkt. 263.)
5. The Plan does not provide for treatment of the Claim as required by Bankruptcy Code sections 507, 1129, and 1191.



6. The Plan does not provide for the Department's secured claim, either. In fact, the Plan provides that all non-scheduled liens "are extinguished on the Effective Date." There is no Code provision that authorizes a blanket extinguishment of unspecified liens, and, further, such a provision would violate the Fifth Amendment's Due Process Clause. *See, e.g., Matter of Edwards*, 962 F.2d 641, 645 (7th Cir. 1992) ("[D]ue process entitled a lienholder to notice before his lien is extinguished."). Separately, the Plan, as a liquidating plan, cannot extinguish liens. 11 U.S.C. § 1141(d)(3)(A).

7. The Plan accordingly cannot be confirmed because it violates numerous Bankruptcy Code provisions, as set forth above.

WHEREFORE, the Department requests that the Court deny confirmation of the Plan for the reasons set forth above and direct the Debtors to provide for the Claim as required by the Bankruptcy Code.

Dated: August 15, 2023

JOSHUA L. KAUL  
Attorney General of Wisconsin

/s/ Michael D. Morris  
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CERTIFICATE OF SERVICE

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I certify that on the below date, I caused to be served via the ECF system a copy of the Wisconsin Department of Workforce Development's Objection to Debtor's Plan of Liquidation, on the parties who are registered to receive ECF notification in this case.

Dated: August 15, 2023

s/Michael D. Morris  
MICHAEL D. MORRIS  
Assistant Attorney General  
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