



SO ORDERED

A handwritten signature in blue ink that reads "Neil P. Olack".

Judge Neil P. Olack  
United States Bankruptcy Judge  
Date Signed: April 23, 2019

**The Order of the Court is set forth below. The docket reflects the date entered.**

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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:**

**ALEXANDER SEAWRIGHT  
TRANSPORTATION, LLC,**

**CASE NO. 19-00217-NPO**

**DEBTOR.**

**CHAPTER 11**

**ORDER CONVERTING CHAPTER 11 CASE TO CHAPTER 7 CASE**

This matter came before the Court for hearing on April 23, 2019 (the "Hearing"), on the United States Trustee's Motion to Convert or Dismiss (the "Motion") (Dkt. 161) filed by David W. Asbach, Acting United States Trustee for Region 5 (the "UST") and the Answer and Response to Motion to Convert or Dismiss (the "Answer") (Dkt. 184) filed by the debtor, Alexander Seawright Transportation, LLC (the "Debtor") in the above-referenced chapter 11 bankruptcy case. At the Hearing, Christopher J. Steiskal, Sr. represented the UST, and Craig M. Geno represented the Debtor. After considering the pleadings and arguments of counsel at the Hearing, the Court announced its ruling from the bench, ordering the immediate conversion of this chapter 11 case to a chapter 7 case. This Order memorializes and supplements that oral ruling.

## **Jurisdiction**

The Court has jurisdiction over the parties to and the subject matter of this case pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). Notice of the Hearing was proper under the circumstances.

## **Facts**

1. On January 18, 2019, the Debtor filed a petition for relief under chapter 11 of the United States Bankruptcy Code. (Dkt. 1). The Debtor is a long-haul trucking company and currently acts as the debtor-in-possession in this chapter 11 case.

2. On March 6, 2019, the UST concluded the Debtor's § 341 meeting of creditors. (Dkt. 123).

3. On March 18, 2019, the Court issued the Memorandum Opinion and Order Denying Emergency Motion for Imposition of the Automatic Stay, for Damages, Sanctions and for Contempt (Dkt. 150), finding that the Debtor filed the underlying emergency motion in bad faith and holding that the cancellation notice issued to the Debtor with respect to its physical damage insurance policy is valid and does not violate the automatic stay. To the extent required, the Court further found that the automatic stay should be annulled retroactive to the date of the cancellation notice.

4. On March 29, 2019, the UST filed the Motion, asserting that (1) the Debtor has yet to provide proof to the UST that it has cured the deficiencies noted by the UST at the § 341 meeting of creditors; (2) the Debtor changed its name postpetition to "MidGulf Express, LLC" but has yet to disclose this name change in the underlying chapter 11 case, other than "during testimony at the meeting of creditors"; (3) the Debtor has not filed any monthly operating reports; (4) the Debtor has not obtained physical damage property insurance; and (5) the Debtor has only one employee.

(Dkt. 161). Accordingly, the UST asks this Court to convert this chapter 11 case to a chapter 7 case or dismiss it entirely pursuant to 11 U.S.C. § 1112(b)(1).

5. On April 19, 2019, the Debtor filed the Answer, asserting that (1) some of the deficiencies noted by the UST at the § 341 meeting of creditors have been cured; (2) the Debtor changed its name “to insert a new ‘doing business as’ name; (3) the Debtor has not filed any monthly operating reports; (4) the Debtor has not obtained physical damage property insurance; and (5) the Debtor has no employees. (Dkt. 184). The Debtor further asserts that “all of its have either been voluntarily returned to creditors or they have been repossessed after orders were entered lifting the automatic stay.” (*Id.*) “[I]t has no cash, it has no operations and is out of business, with no prospects to resume.” (*Id.*) As a result, the Debtor asks this Court to dismiss this chapter 11 case because “conversion of the case would only increase administrative costs, fees and expenses when there are no funds with which to pay administrative costs, fees or expenses.” (*Id.*)

### **Discussion**

At the Hearing, counsel for the Debtor and counsel for the UST announced that they have reached an agreement to dismiss, rather than ask the Court to convert, the chapter 11 case. The Court, however, having considered the pleadings and the arguments of counsel, finds that it is in the best interests of the creditors that this case be converted from a chapter 11 case to a chapter 7 case, thereby avoiding any further dissipation of assets and allowing for a prompt and orderly liquidation and for a closer investigation by the chapter 7 trustee into the Debtor’s prepetition and postpetition conduct.

IT IS, THEREFORE, ORDERED that this chapter 11 case should be, and is hereby, converted to a chapter 7 case immediately.

IT IS FURTHER ORDERED that a chapter 7 trustee shall be appointed without delay.

##END OF ORDER##