UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re	)	Case No. 04-63851
	)	
NIPPON ELECTRIC GLASS OHIO, INC.	)	Federal I.D. No. 95-4658750
	)	
Debtor.	)	Chapter 11
	)	
	)	Judge John E. Hoffman, Jr.

MOTION FOR ORDER APPROVING AGREEMENTS WITH (1) DEBTOR'S INSURERS AND (2) DEBTOR'S CUSTOMERS FOR SETTLEMENT OF CLAIMS RELATING TO FIRE LOSSES

Nippon Electric Glass Ohio, Inc., debtor-in-possession (the "Debtor"), hereby moves the Court for entry of an order, substantially in the form attached as Exhibit A hereto, pursuant to 11 U.S.C. §§ 363(b), (1) approving an agreement between the Debtor and its casualty insurers, Grupo Nacional Provincial, S.A. ("GNP") and Tokio Marine Cia de Seguros ("TMC") (collectively, the "Insurers") for settlement of the Debtor's insurance claim for losses arising out of a fire at the Debtor's manufacturing facility in Mexicali, Mexico on October 7, 2004, and authorizing the Insurers to pay the insurance proceeds to the Debtor, and (2) approving the Debtor's agreements with three of the Debtor's customers, Sony Electronics Inc. ("Sony"), Thomson Displays Mexicana S.A. de C.V. ("Thomson"), and Display Orion Mexicana, S.A. de C.V. ("Domex") for settlement of claims of the customers for losses they incurred as a result of the fire.

A memorandum in support of this Motion is provided below.

August 30, 2005

NIPPON ELECTRIC GLASS OHIO, INC.

By: /s/ Kenneth R. Cookson

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MEMORANDUM IN SUPPORT

JURISDICTION

1. On September 1, 2004 (the "Petition Date"), the Debtor filed a voluntary petition in this Court for reorganization relief under Chapter 11 of the Bankruptcy Code. 11 U.S.C. §§ 101, *et seq*. The Debtor continues to operate its business and manage its affairs as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107(a) and 1109.

2. No creditor's committee has been appointed in this case. No trustee or examiner has been appointed in this case.

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b)(2).

4. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 105, 363, 1107 and 1108, Bankruptcy Rules 2002 and 6004 and Local Bankruptcy Rule 6004-1.

BACKGROUND

A. Debtor's Business Operations

5. Prior to the Petition Date, the Debtor was in the business of manufacturing and selling glass parts, specifically funnels and panels, for cathode ray tubes used in television sets. The Debtor has gross revenue of approximately $20 million a year from sales to manufacturers of television sets.

6. The Debtor's manufacturing operations were conducted pursuant to a "maquila"[1] agreement with its subsidiary, NEG Electric Glass Mexico S.A. de C.V. ("NEG Mexico"),[2] at NEG Mexico's facility located in Mexicali, Mexico. Under the agreement, the Debtor supplied all equipment, machinery, raw materials and components used in the manufacturing operation. Thus, the Debtor owned the machinery and equipment and inventory, consisting of finished and unfinished glass components, at the Mexicali facility. NEG Mexico owned the building and real property. The Debtor paid NEG Mexico for its services in an amount equal to NEG Mexico's costs of operations, plus an 8% fee.

B. Fire Loss at Mexicali Facility

7. On October 7, 2004, a fire started by a spark in a lighting fixture severely damaged, and for practical purposes, destroyed the Mexicali facility and contents located inside the building. All of the Debtor's inventory and manufacturing equipment located in the building was destroyed and was transformed into broken glass and scrap metal. The building itself, owned by NEG Mexico, is also a total loss and had to be substantially torn down. The fire caused a total cessation of production at the Mexicali facility.

8. Since the fire, the Debtor's business has been a distribution business, in which the Debtor has purchased glass components from its affiliates and sold the product to its customers.

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[1] "Maquila" refers to a program under which Mexican companies (called "maquiladoras"), commonly located near the U.S. border, perform assembly or manufacturing operations for United States companies, under laws affording favorable customs and tax treatment for machinery, equipment, materials and components imported into Mexico and the finished product exported from Mexico.

[2] The Debtor owns all but one share of the 50,000 shares of the stock of NEG Mexico, which is incorporated in Mexico. The remaining one share is nominally owned by the Debtor's affiliate, Nippon Electric Glass America, Inc.

9. At the time of the loss, the equipment owned by the Debtor had a book value of approximately $4.4 million, and the inventory had a book value of approximately $2.7 million. The building owned by NEG Mexico had a book value of approximately $5.8 million.

C. The Insurance Settlement

10. The Debtor and NEG Mexico have casualty insurance, including fire insurance, with the Insurers on the building, machinery and inventory, with policy limits of $11.8 million for the building, $9.1 million for machinery and equipment, and $3.8 million for inventory.

11. Since the fire, the Debtor has pursued an insurance claim with the Insurers for its fire loss. The Debtor's fire losses include not only the value of the inventory and equipment that was destroyed, but substantial expenses for cleanup and debris removal, and liability to customers for losses incurred by the customers as a result of the fire.

12. The Debtor has reached an agreement with the Insurers, subject to Bankruptcy Court approval, for payment by the Insurers to the Debtor of a total of $9,157,940 (the "Insurance Payment") in full satisfaction of all claims of the Debtor under the insurance policy for losses related to, arising out of or resulting from the fire. The Insurers paid the Debtor a partial payment of $1,500,000 in December, 2004. The balance of $7,667,940 will be paid within 10 days after entry of the Bankruptcy Court's order approving the agreement with the Insurers. A copy of the agreement with the Insurers is attached hereto as Exhibit B.

13. The insurance settlement was based on the following: $6,127,940 for loss of machinery, equipment, furniture and spare parts, including debris removal costs related thereto; and $3,040,000 for loss of inventory, including $374,702 for loss of inventory owned by the Debtor's customers, and debris removal costs related thereto.

14. The Insurance Payment will be exclusive of any claims of, and payment to, NEG Mexico for its losses related to the fire. The Insurers have agreed to pay NEG Mexico $5,484,248 for the value of its building, furniture and office equipment, debris removal costs and certain consequential damages. The final amount that the Insurers will pay NEG Mexico for consequential damages is still under review.

D. Payment of Claims of Sony, Thomson and Domex

15. Three of the Debtor's customers, Sony, Thomson and Domex, have asserted claims against the Debtor for losses and damages they incurred as a result of the fire. The Debtor has agreed to pay a total of $620,198.25 to the three customers in satisfaction of their claims, as outlined below.

16. At the time of the fire, Sony had inventory, consisting of neckless funnels and packaging, located at the warehouse pursuant to contractual arrangements with the Debtor. The Sony inventory was totally destroyed by the fire. Sony has made claim against the Debtor for loss of the inventory and transportation costs. The Debtor has agreed to pay Sony $253,838.15 in full settlement of its claims, and the entire amount is included in the Insurance Payment. A copy of the Debtor's agreement with Sony is attached hereto as Exhibit C.

17. At the time of the fire, Thomson had inventory located at the Mexicali plant, consisting of panels sent to the Mexicali plant for buffing pursuant to contractual arrangements with the Debtor. Thomson's inventory was destroyed, and Thomson asserted claims against the Debtor for loss of inventory, transportation costs and consequential damages, including costs incurred by Thomson to mitigate the impact of the inventory loss on its own customers during a peak business season.

18. The Debtor has agreed to pay Thomson a total of $249,541.10 in full satisfaction of its claims. The Insurance Payment includes $120,864 for the value of the Thomson inventory, but

the Insurers declined coverage for the remaining portion of the Thomson claim. A copy of the Debtor's agreement with Thomson is attached hereto as Exhibit D.

19. At the time of the fire, Domex inventory, consisting of unpolished glass panels, was being shipped from Brazil to the Mexicali facility for polishing pursuant to contractual arrangements with the Debtor. As a result of the fire, the Debtor was unable to provide the polishing services, and Domex returned the inventory to Brazil for polishing. Domex asserted a claim against the Debtor for transportation costs for shipping of the inventory between Brazil and Mexico.

20. The Debtor has agreed to pay Domex $106,819 in full settlement of its claim. The Insurance Payment does not include any amounts for the Domex claim. A copy of the Debtor's agreement with Domex is attached hereto as Exhibit E.

LAW AND ARGUMENT

21. Section 363(b)(1) of the Bankruptcy Code provides that the "[t]trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code section 105(a), "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). Bankruptcy Rule 9019(a) provides, in pertinent part, that upon motion by the Debtor and after notice and hearing, the Court may approve a compromise or settlement.

22. Compromises expedite the administration of the case and reduce administrative costs and are favored in bankruptcy. See *Fogel v. Zell*, 221 F.3d 944, 960 (7th Cir. 2000); *In re Martin*, 91 F.3d 389, 393 (3d Cir. 1996); *In re Le Way Holding, Co.*, 120 B.R. 881, 891 (Bankr. S.D. Ohio 1990).

23. A settlement should be approved if it is in the best interests of the estate. *In re Goldstein*, 131 B.R. 367, 370 (Bankr. S.D. Ohio 1991); *In re Planned Systems, Inc*., 82 B.R. 919, 921-922 (Bankr. S.D. Ohio 1988). Further, a settlement should be approved unless it "falls below the lowest point in the range of reasonableness." *Matter of Energy Co-op, Inc.*, 886 F.2d 921, 929 (7th Cir. 1989)*; In re Goldstein*, at 370. In making this determination, significant deference should be given to the informed judgment of the debtor that a proposal is fair and equitable. *In re Martin*, at 393; *Nellis v. Shugrue*, 165 B.R. 115, 121 (S.D.N.Y. 1994).

24. The Debtor believes that its insurance settlement with the Insurers and its settlement of the customer claims are reasonable and should be approved in the interests of the estate. The Insurance Payment will provide the Debtor with fair value for its inventory and equipment and will compensate the Debtor for other costs incurred as a result of the fire. Likewise, the Debtor believes that its agreement with its customers to pay for their fire losses is fair, equitable and reasonable, and important to the Debtor's continuing business relationship with these customers.

25. The Insurance Payment will also facilitate the Debtor's reorganization and implementation of the Joint Plan of Reorganization (the "Plan") that the Debtor recently filed with its affiliates, Techneglas, Inc. and Nippon Electric Glass America, Inc. As the fire occurred post-petition, the claims of the customers are administrative claims, which must be paid or payment must be reserved before the Plan can be confirmed. The Insurance Payment not only will enable the Debtor to pay the administrative claims of the customers, but will also provide the major source of funding for the payments that the Debtor will make to prepetition creditors on the Effective Date of the Plan.

CONCLUSION

For the reasons discussed above, the Debtor respectfully requests that this Court enter an order, substantially in the form attached here as Exhibit A, (1) approving the Debtor's agreement

with the Insurers for settlement of the Debtor's insurance claim arising out of the fire for the total amount of $9,157,940 and authorizing the Insurers to pay the insurance proceeds to the Debtor, and (2) approving the Debtor's agreements with Sony, Thomson and Domex for settlement of their claims for losses arising out of the fire.

Dated: August 30, 2005

Respectfully submitted,

NIPPON ELECTRIC GLASS OHIO, INC.

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