

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Case No. 04 B 02221
)
Wickes Inc.) Chapter 11
)
Debtor.) Honorable Bruce W. Black
)
) Hearing Date: October 29, 2009 at 9:30 a.m.

NOTICE OF ROUTINE MOTION

PLEASE TAKE NOTICE, that on **October 29, 2009 at 9:30 a.m.**, we shall appear before the Honorable Bruce W. Black, in the courtroom usually occupied by him in the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604, or before any other judge who may be sitting in his place and stead and then and there present the attached **ROUTINE MOTION OF LIQUIDATING TRUSTEE FOR AUTHORITY TO DESTROY BUSINESS RECORDS OR, IN THE ALTERNATIVE, FOR OTHER RELIEF** (the "Motion") a copy of which is attached and hereby served upon you.

PLEASE TAKE FURTHER NOTICE, that the Motion is as a routine motion pursuant to Local Bankruptcy Rule 9013-9(A)(4); therefore, the proposed order attached to the Motion may be entered by the Court without further presentment in open court unless a party in interest notifies the Court of an objection to the Motion pursuant to Local Bankruptcy Rule 9013-9(C).

Dated: October 14, 2009

Respectfully submitted,

DAROLD WEIDMAN, as Liquidating
Trustee for Wickes Inc.

By: /s/ Morgan M. Smith
RICHARD M. BENDIX, JR. (#0168130)
MORGAN M. SMITH (# 6287435)
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In re:)	Case No. 04 B 02221
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**ROUTINE MOTION OF LIQUIDATING TRUSTEE
FOR AUTHORITY TO DESTROY BUSINESS RECORDS OR, IN THE
ALTERNATIVE, FOR OTHER RELIEF**

Darold Weidman (the “Trustee”), not individually, but in his capacity as liquidating trustee for the estate of Wickes Inc. (the “Debtor”), debtor in the above-captioned chapter 11 bankruptcy case (the “Case”), presents this routine motion (the “Motion”), pursuant to the Modified First Amended Joint Plan of Liquidation of Wickes Inc. and Official Committee of Unsecured Creditors Dated December, 2007 (Docket No. 3771) (the “Plan”), and Local Bankruptcy Rule 9013-9(A)(4) for entry of an order authorizing the Trustee to destroy certain of the Debtor’s business records or, in the alternative, an order authorizing the Trustee to turnover the Debtor’s business records to any party that objects to the destruction of the business records, or compelling such objecting party to pay the Trustee’s storage expenses until such objecting party notifies the Trustee that it consents to the destruction of the Debtor’s business records. In support of the Motion, the Trustee states as follows:

Background

1. On January 20, 2004 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

2. On or about January 26, 2004, the United States Trustee appointed the Official Committee of Unsecured Creditors (the “Committee”). No trustee or examiner has been appointed in the Case.

3. On December 12, 2007, the Court entered an order confirming the Plan (Docket No. 3801) (the “Confirmation Order”). The Plan became effective on December 18, 2007 (the “Effective Date”).

4. Pursuant to section 4.4(a) of the Plan and paragraph 6 of the Confirmation Order, the Trustee was appointed as of the Effective Date.

5. Since the Effective Date, the Trustee has continued to prosecute certain actions initially brought by the Debtor’s estate against numerous defendants (the “Avoidance Action Defendants”) pursuant to sections 547 and 550 of the Bankruptcy Code.

6. The Trustee currently stores substantially all of the Debtor’s historical business records in a warehouse operated by Iron Mountain, which is headquartered at 4175 Chandler Drive, Hanover Park, IL 60133 (the “Iron Mountain Facility”).

7. The Trustee has identified approximately 6,808 boxes of the Debtor’s historical business records (the “Records”) currently stored at the Iron Mountain Facility for which the Trustee no longer has a use. An index of the Records is attached hereto as Exhibit A.

8. The Trustee pays approximately \$3,303.93 in monthly rent (the “Rent”) to store the Records at the Iron Mountain Facility. The Iron Mountain Facility has advised the Trustee that it will cost approximately \$59,428.86 to destroy the Records.

Jurisdiction

9. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. § 1334(b). This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

10. By this Motion, the Trustee respectfully requests that the Court enter an order authorizing the Trustee to destroy the Records or, in the alternative, an order authorizing the Trustee to turnover the Records to any party that objects to the Trustee's destruction of the Records, or compelling such objecting party to pay the Rent until such objecting party notifies the Trustee that it consents to the Trustee's destruction of the Records.

Basis For The Relief Requested

11. Pursuant to sections 4.4(b)(v) and (xv) of the Plan, the Trustee is charged with the rights, powers and duties of "disposing of any remaining assets [of the Debtor's estate and]...taking any and all other actions necessary or appropriate to implement or consummate this Plan and the provisions of the Liquidating Trust Agreement...."

12. Pursuant to section 4.4(f) of the Plan, the Trustee is authorized "to carry out all functions contemplated by this Plan, including, without limitation, those set forth in Section 4.4(b) of this Plan, *without approval* of the Bankruptcy Court." (Emphasis added.)

13. With respect to destruction of the Debtor's documents, section 10.14(b) of the Plan specifically provides, in part, as follows:

The Liquidating Trustee shall retain each document and record of the Debtor(s) until the Liquidating Trustee determines that all needs and purposes to retain such particular document or record have ended. When the Liquidating Trustee has made such a determination with regard to a document or record, the Liquidating Trustee may discard or abandon such document or record, in his/her sole discretion, provided, however, that the Liquidating Trustee shall first give

reasonable and adequate notice to the Insurers and/or their designated defense counsel, at which time the Insurers and/or their designated defense counsel may, at the expense of those Insurers providing a defense to Tort Claims, take possession and keep any such records deemed by them to be necessary to the defense of any Tort Claim being defended by them.

14. The Trustee has determined in his business judgment that the Records are no longer needed by the Debtor's estate, because such Records are not relevant to any ongoing disputes or claims by or against the Trustee or the Debtor's estate. The Trustee believes the Records should be destroyed now, in lieu of both (i) the continuing monthly rental expense associated with storing the Records, and (ii) the eventual inevitable expense of destroying the Records

15. Therefore, the Trustee brings this Motion, out of an abundance of caution, to serve as notice to both (i) the Insurers and/or their designated defense counsel, and (ii) the Avoidance Action Defendants of the Trustee's intent to destroy the Records.

Notice

16. Notice of this Motion has been delivered to (i) counsel for the Committee, (ii) counsel for the United States Trustee, (iii) counsel for the Insurers, (iv) counsel for the Avoidance Action Defendants, and (v) the Internal Revenue Service. The Trustee submits that, under the circumstances, no further notice need be given.

Conclusion

WHEREFORE, the Trustee requests that this Court enter (a) an order, substantially in the form of proposed order attached hereto (i) authorizing the Trustee to destroy the Records, and (ii) granting such other and further relief as is just and appropriate under the circumstances or, in the alternative, (b) an order (i) authorizing the Trustee to turnover the Records to any party that objects to the Trustee's destruction of the Records, or compelling such objecting party to pay the Rent until such objecting party notifies the Trustee that it consents to the Trustee's destruction of the Records, and (ii) granting such other and further relief as is just and appropriate under the circumstances.

Dated: October 14, 2009

Respectfully submitted,

DAROLD WEIDMAN, as Liquidating
Trustee for Wickes Inc.

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