

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

In re:)	
)	
FLORIDA FOREST PRODUCTS)	CASE No. 16-10148-KKS
OF CROSS CITY, INC.,)	
)	
)	CHAPTER 11
Debtor.)	
_____)	

**OBJECTION BY UNITED STATES TRUSTEE TO
THE ADEQUACY OF THE
AMENDED DISCLOSURE STATEMENT (doc. 129)**

COMES NOW GUY B. GEBHARDT, Acting United States Trustee for Region 21, and pursuant to the authority and responsibility set forth in 28 U.S.C. Section 586(a)(3) and 11 U.S.C. Section 307, objects to the adequacy of the Amended Disclosure Statement filed by the Debtor, and states:

1. The Debtor filed a Disclosure Statement on December 28, 2016 (docket no. 116). The United States Trustee filed an Objection (docket no. 122) and the Court entered an Order (docket no. 126) on February 10, 2017 directing the Debtor to file an amended disclosure statement and continuing the disclosure statement hearing to March 2, 2017.

2. The Debtor filed an Amended Disclosure Statement (docket no. 129) and an Amended Chapter 11 Plan (docket no. 128) on February 20, 2017. For the reasons set forth herein, the United States Trustee contends the Amended Disclosure Statement lacks "adequate information" and otherwise fails to satisfy the requirements of §1125(a) of the Bankruptcy Code.

3. The Amended Disclosure Statement does not note or disclose payments to Cap Call, LLC and Rapid Capital. As a consequence, the proposed plan payments are incomplete and misleading. There is no information provided in the Amended Disclosure Statement about who will act as the disbursing agent, or how the Debtor determined the formula for payment would result in a fair or adequate payment, other than to note the proposed payments may be more than the creditors may receive in a chapter 7 liquidation, assuming the Debtor completes all payments over the life of the 60 month plan. The failure to provide this information prevents creditors from understanding whether the Debtor may be able to fund the Plan.

4. This chapter 11 case was filed on June 29, 2016 and the Amended Disclosure Statement was filed on February 20, 2017. The information provided regarding the Debtor's financial operations is incomplete and misleading. Page 12, paragraph D (2), of the Amended Disclosure Statement states as follows:

Based upon the monthly reports filed from June 2016 through December 2016, the Debtor has averaged \$11,700 net income per month from which to pay the creditors. The Debtor projects that such

income is sufficient to pay the creditors the proposed distribution during the plan.

The monthly financial reports show the following “net” income per month (shown in the reports as cash profit for the month):

June, 2016	\$ (6028.61)
July, 2016	\$ 18,959.14
August, 2016	\$ 11,003.89
September, 2016	\$ (1,040.03)
October, 2016	\$ 737.98
November, 2016	\$ 18,663.36
December, 2016	\$ 27,902.81
TOTAL:	\$ 70,198.54

The December report shows an ending cash balance of \$880.00 and the bank statement attached to this report shows a beginning balance of \$9,614.99 and an ending balance of \$29,372.35. The reported net income of \$70,198.54 for the period of June through December of 2016 is far more than the Debtor reports having on hand either in cash or in its bank account as of December 31, 2016.

5. The Amended Disclosure Statement does not provide a pro forma showing projected income and expenses and projected payments under the terms of the proposed Plan. It is not possible based on the limited financial information provided in the Amended Disclosure Statement, even when read in concert with

the Plan, for creditors to understand whether the Debtor has an ability to fund the Plan. This is highlighted by the apparent discrepancy between the reported funds on hand as of December of 2016 relative to the stated monthly net income.

6. The Debtor has not filed the January operating report that was due on or before February 21, 2017 as of the date of this Objection (February 26, 2017). The financial information provided in the Amended Disclosure Statement may be stale or inaccurate since we do not know how the Debtor performed in January of 2017.

7. Because the Debtor proposes to pay unsecured creditors less than in full, it is not possible based on the limited information contained in the Disclosure Statement for creditors to determine whether the Plan is proposed in good faith (individual holder(s) of equity interest in reorganized Debtor retain their interests for no consideration in violation of absolute priority rule and new value exception). The Plan may violate 11 U.S.C. §1129(b)(2)(B) – the absolute priority rule - in the event all classes of impaired creditors do not vote in favor of the Plan.

8. The Amended Disclosure Statement states an incorrect deadline of June 30, 2016 for the filing of claims on page 10.

9. Based on the failure of the Amended Disclosure Statement to provide a pro forma of projected income and expenses and payments under the proposed Plan, the inconsistency in the financial information in the Amended Disclosure Statement relative to the monthly financial reports, and the lack of current financial

information, the Amended Disclosure Statement does not provide adequate information within the meaning of 11 U.S.C. §1125(a) for creditors to make an informed judgment about the Plan.

10. The Amended Disclosure Statement does not satisfy the requirements necessary for the Debtor to solicit votes on the proposed Plan under 11 U.S.C. §1125(b).

WHEREFORE, the United States Trustee objects to approval of the Amended Disclosure Statement for the reasons stated herein.

Respectfully submitted, this the 26th day of January, 2017.

Guy G. Gebhardt
Acting United States Trustee
Region 21

/s/ CHARLES F. EDWARDS
Charles F. Edwards
Assistant United States Trustee
110 East Park Avenue, Suite 128
Tallahassee, FL 32301
850-942-1660
FAX: 850-942-1669
Florida Bar No. 270032
charles.edwards@usdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objection, and all exhibits or attachments thereto, if any, will be furnished by United States Mail first class postage prepaid to: Florida Forest Products of Cross City, Inc., PO Box 1176, Cross City, FL 32628; and, Angela M. Ball, Esq., Angela M. Ball, P.A., 615 N. Jefferson St., Perry, FL 32347 , on the 27th day of February, 2017.

/s/ CHARLES F. EDWARDS
Charles F. Edwards