

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

In re:	)	
	)	
SOLAR WOLF ENERGY, INC	)	
	)	
	)	Chapter
Debtor	)	Case No. 22-40693-CJP
	)	

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Pursuant to 11 U.S.C. §362(d)(1), Fed. R. Bankr. P. 4001(a) and Local Rule 27, \_\_\_\_\_ (Collectively "Movants") move the Court to lift the automatic stay according to SOLAR WOLF ENERGY, INC ("Debtor") in order to allow \_\_\_\_\_ to arbitrate the dispute with the Debtor within a private arbitration services program ("Program"), approved by the Director of the Office of Consumer Affairs and Business Regulation pursuant to M.G.L. c.142A, §4. Under the Program, the Movants may recover \_\_\_\_\_ unsecured claim in full from non-Debtor funds held by the Massachusetts Residential Contractor's Guaranty Fund ("Fund"), established pursuant to M.G.L. c. 142A §5. In support, the Movants say:

I.  
FACTS

1. The Debtor, a registered Massachusetts home improvement contractor, filed his voluntary Chapter 7 petition on September 23, 2022.
2. The Debtor agreed to perform home improvements on Movants' residence, located at \_\_\_\_\_ ("Property") per a written contract dated \_\_\_\_\_ ("Contract"). The Debtor failed to perform under the Contract in a workmanlike manner, resulting in damages to the Property exceeding \$\_\_\_\_\_ which are the basis of Movants' claim. A true and correct copy of the Contract is attached as Exhibit "A".
3. The Movant(s) did not obtain a pre-petition judgment on their claim from a court of competent jurisdiction.

II.  
ARGUMENT

4. The Massachusetts Legislature created the Fund in order to compensate homeowners (up to a maximum of \$10,000.00):

for actual losses incurred by them as a result of registered contractor or subcontractor conduct which has been found by a court of competent jurisdiction to be work performed in a poor or unworkmanlike manner or which is a common law violation or a violation of any statute or regulation designed for the protection of consumers...provided, however, that the owner has exhausted all customary and reasonable efforts to collect the judgment but the contractor has filed for bankruptcy, fled the jurisdiction or the owner is otherwise unable to collect such judgment after execution.

M.G.L. c. 142A §5.

Thus, in order to make a claim against the Fund, Movant(s) must first obtain either a state court judgment, or obtain an arbitration award under the Program and have that award confirmed by a court pursuant to M.G.L c.251. See 201 CMR §14.00 et seq.

5. Inasmuch as the Movant(s) did not obtain a pre-petition judgment against the Debtor, the Court should grant the Movant(s) relief from the automatic stay for "cause" under 11 U.S.C. §362(d)(1) so that Movant(s) may proceed with arbitration under the Program, and, if successful, confirm the arbitration award pursuant to M.G.L c. 251. Such arbitration will provide an inexpensive forum in which the parties may liquidate the Movants' claim. If the Movant(s) successfully liquidate their claim in arbitration, confirm the award, and otherwise qualify for payment from the Fund, Movant(s) will seek payment from the Fund. Pursuant to M.G.L. c. 142A §8, the Commonwealth will be subrogated to the Movant(s)'s claim and, therefore, receive *pari passu*, payment from the Debtor's estate, assuming any dividend is available.
6. PER LOCAL RULE 27(D)(1), FAILURE TO OPPOSE THIS MOTION WITHIN TEN (10) DAYS OF SERVICE MAY RESULT IN THE COURT'S GRANTING THE REQUESTED RELIEF WITHOUT HEARING.

WHEREFORE, \_\_\_\_\_ pray that the Court enter an order granting them: (i) relief from the automatic stay so that they may pursue their remedies under M.G.L. c. 142A and 201 CMR14.00; and (ii) such other relief to which they may be entitled.

Respectfully submitted,

By: \_\_\_\_\_

CERTIFICATE OF SERVICE

The undersigned certifies that on \_\_\_\_\_ true and correct copies of the foregoing motion were served via United States mail, First Class postage pre-paid, upon the individuals listed below.