

Hemp Producer Says Insurance Lapse No Reason To Go Ch. 7

By **Rick Archer**

Law360 (May 22, 2020, 5:33 PM EDT) -- Hemp producer GenCanna on Friday asked a Kentucky bankruptcy judge to reject a request by the U.S. Trustee's Office to convert its bankruptcy case to a Chapter 7 liquidation, saying a lapsed property insurance policy is not a sufficient reason for conversion.

GenCanna argued that a Chapter 7 trustee would have no more luck than it has in finding a new policy for the disused property at issue and that conversion would derail the work the company has put in toward an orderly wind-down of its business.

GenCanna, which makes CBD products from processed industrial hemp, filed for bankruptcy in February, a month after a creditor filed an involuntary Chapter 11 petition.

On Tuesday, U.S. Bankruptcy Judge Gregory Schaaf **signed off** on an order allowing GenCanna to sell all of its inventory, intellectual property and licenses to an affiliate of MGG Investment Group for \$77 million.

The day before that, the U.S. Trustee's Office filed a motion asking to convert the case to a Chapter 7. GenCanna has let its insurance lapse for a greenhouse it owns in Kentucky, valued at a little more than \$4 million, the office said.

GenCanna on Friday said that the policy lapsed May 5 when the provider declined to renew it and that it has been making a good faith but so far unsuccessful effort to find an insurer willing to write a policy for a bankrupt CBD producer.

"The brokers have not yet been successful, and there is no reason to believe that a Chapter 7 trustee will fare any better," it said.

GenCanna argued there was no danger to the public, as all of its other insurance policies remain in effect and there is currently no business being conducted or employees working at the site. The company is seeking a buyer for the property, it said.

It also said conversion would end ongoing settlement talks with MGG over its claims.

"The settlement terms are still under negotiation, but if an agreement can be reached with MGG, the debtors anticipate using the additional cash value, combined with the cash consideration from the asset sale, to fund a plan of liquidation that will pay for all allowed administrative claims and maximize recoveries for unsecured creditors," it said.

Counsel for GenCanna and representatives for the U.S. Trustee's Office did not immediately respond to requests for comment Friday.

GenCanna is represented by James R. Irving, April A. Wimberg and Christopher B. Madden of Dentons Bingham Greenebaum LLP and Michael J. Barrie, Jennifer R. Hoover and Elliot M. Smith of Benesch Friedlander Coplan & Aronoff.

The U.S. Trustee is represented by John L. Daugherty, Rachelle C. Dodson and Bradley M. Nerderman of the U.S. Trustee's Office.

The case is In re: GenCanna Global USA Inc., case number 20-50133, in the U.S. Bankruptcy Court for the Eastern District of Kentucky.

--Additional reporting by Diana Novak Jones. Editing by Daniel King.