

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

STAMP FARMS, L.L.C., *et al.*,¹

Debtor.

Case No. DK 12-10410

Chapter 11

Hon. Scott W. Dales

ORDER

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

On February 20, 2013, evidently in anticipation of the closing of the transaction contemplated in the Order Approving Bulk Sale (the “Sale Order,” DN 454), the Debtors filed a proposed Amended Order Approving Bulk Sale (the “Proposed Amended Order,” DN 497), unaccompanied by any motion. Instead, representatives of the Debtors’ law firm telephoned and emailed the court’s staff to request entry of the Proposed Amended Order by noon today, and to advise the court, *ex parte*,² that the changes reflect additions made at the request of the successful bidder, Boersen Farms, Inc.

The court has reviewed the Proposed Amended Order and perceives that the changes generally address the rights of non-debtor parties to unexpired leases of real and personal property. Accordingly, the court is not satisfied that the Proposed Amended Order comes within the narrow class of amendments to orders that the court may make, *sua sponte*, under Fed. R. Civ. P. 60(a). More generally, without a motion, the court is unsure of the grounds for the amendments. *See* Fed. R. Bankr. P. 9023 & 9024 (incorporating Fed. R. Civ. P. 59 & 60).

If the amendments are merely clerical, the court doubts their necessity;³ if, instead, they are substantive, the court doubts their propriety, at least without a motion on notice to affected parties and the United States Trustee. If the Debtors file a motion establishing to the court’s satisfaction⁴ that the amendments are clerical and not

¹ The Debtors are: Stamp Farms Trucking, L.L.C. (Case No. 12-10411); Stamp Farms Custom AG, L.L.C. (Case No. 12-10416); and Royal Star Farms, L.L.C. (Case No. 12-10417).

² *See* Fed. R. Bankr. P. 9003(a) (Prohibition of Ex Parte Contacts).

³ The Sale Order does not appear to contain any patent errors meriting correction. *See* Fed. R. Bankr. P. 9005.

⁴ Debtors’ counsel should consider including a supporting declaration under penalty of perjury establishing the lessors’ consent. 28 U.S.C. § 1746.

substantive, and that the equipment lessors contemplated in recital P and paragraphs 15 & 34 have consented to the changes, the court would consider signing the Proposed Amended Order as drafted. On the other hand, given the time constraints, the parties may decide to rely on the Sale Order as originally entered.

Recognizing that the Debtors and the successful bidder may see matters differently, and that time is of the essence, the court is entering this Order promptly to advise all parties that it will not sign the Proposed Amended Order *ex parte* and without a motion.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon: Michael S. McElwee, Esq., Robert D. Mollhagen, Esq., Diana Psarras, Esq., Steve Jakubowski, Esq., John R. Burns, Esq., Michael R. Stewart, Esq., Wendy K. Walker-Dyes, Esq., Colin F. Dougherty, Esq., Michelle M. Wilson, Esq., the United States Trustee, and all parties who have requested notice in this case.

[END OF ORDER]

IT IS SO ORDERED.

Dated February 21, 2013



A handwritten signature in black ink, appearing to read "Scott W. Dales".

Scott W. Dales
United States Bankruptcy Judge