

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

**ORDER APPROVING *EX PARTE* MOTION TO SHORTEN NOTICE REGARDING MOTION
TO REFUND PORTION OF SALE PROCEEDS REGARDING MOTION FOR SALE OF
PERSONAL PROPERTY FREE AND CLEAR OF LIENS
PURSUANT TO 11 U.S.C. § 363 WITH COURTROOM AUCTION**

PRESENT: HONORABLE JOHN T. GREGG
United States Bankruptcy Judge

THIS MATTER having come to be heard upon the Debtor's *Ex Parte* Motion to Shorten Notice Regarding Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction (“Motion to Shorten Notice”); and the Court being otherwise fully advised in the premises;

IT IS THEREFORE ORDERED:

1. That the Motion to Shorten Notice is granted.
2. That Notice of the Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction is hereby shortened to permit a hearing on **August 3, 2015 at 10:00 a.m. at the Federal Building, U.S. Courthouse, 410 West Michigan Avenue, Kalamazoo, Michigan;** and
3. That service of this Order and the Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction shall be served upon all creditors and parties in interest by close of business on July 24, 2015.

This Document Prepared By:
RAYMAN & KNIGHT
141 E. Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

END OF ORDER

Signed: July 23, 2015



John T. Gregg
John T. Gregg
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Debtor.

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**MOTION TO AUTHORIZE DISTRIBUTION OF
SALE PROCEEDS PURSUANT TO 11 U.S.C. §725**

NOW COMES Thomas C. Richardson, Trustee (“Trustee”), by and through his attorneys, Rayman & Knight, and for his Motion to Authorize Distribution of Sale Proceeds Pursuant to 11 U.S.C. §725 (“Motion”), says as follows:

JURISDICTION

1. That this Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334.
2. That this matter is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(A), (K) and (O). This Motion is brought pursuant to 11 U.S.C. §725 and in accordance with Bankruptcy Rule 6007.

BACKGROUND

3. This Motion relates to the above-captioned Chapter 7 proceeding which was filed on February 26, 2015. Your Trustee is the duly appointed and acting Trustee with respect to this cause.
4. As previously noted in proceedings before this Court, prior to the filing of these proceedings, the Debtor was in the business of producing wind turbine blades. Operations abruptly halted shortly before the filing of the Petition.

5. Since the filing of the Petition, your Trustee has (i) inventoried the property of the estate; (ii) determined, generally, the extent of the priority wage and benefit claimants; (iii) conducted four sales of property of the estate, said sales being of certain equipment upon which NCTI – EC, LLC (“NCTI”) and Robert L. Slikkers (“Robert Slikkers”) (collectively, the “Secured Creditors”) claim an interest.

6. The Trustee, in the conducting of those sales, received certain “carve outs” constituting of approximately 10% of the gross sale proceeds. The gross sale proceeds for the four sales total \$742,469.64 (“Sale Proceeds”)

7. The Trustee has also marshaled, for the benefit of the estate, approximately \$170,000.00 that was in the Debtor's bank accounts upon which may or may not be subject to the liens of Secured Creditors.

8. The Trustee has not consented to the validity of the liens of the Secured Creditors and all of the Trustee's rights with respect to 11 U.S.C. § 544 *et seq.* are preserved.

REQUEST FOR RELIEF

9. The City of Holland claims a lien in the personal property of the Debtor, including the property that has been sold and what remains to be sold, in the amount of \$24,066.95, if paid by August 17, 2015 or \$476.58 more if paid by September 10, 2015. (*See*, Exhibit “A”).

10. The Trustee seeks to distribute \$24,066.95 (plus any the additional if necessary) of the Sale Proceeds, pursuant to 11 U.S.C. § 725 to the City of Holland.

11. 11 U.S.C. §725 provides:

After the commencement of a case under this chapter, but before final distribution of property of the estate under section 726 of this title, the trustee, after notice and a hearing, shall dispose of any property in which

an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title.

12. That the Secured Creditors agree that the Trustee may use the Sale Proceeds to pay the City of Holland.

13. The Secured Creditors and the City of Holland are the only known entities that claim a secured interest in the Sale Proceeds.

14. By operation of law, the City of Holland's claim is superior to that of the Secured Creditors.

15. That the Trustee believes that this Motion is in the best interest of the Estate.

WHEREFORE, your Trustee prays that this Court:

A. Authorize the Trustee to make the proposed distribution of the Sale Proceeds to the City of Holland.

B. Order such other relief as it finds just and equitable.

RAYMAN & KNIGHT
Attorneys for Trustee

Dated: July 23, 2015

By: _____

Cody H. Knight (P64811)

BUSINESS ADDRESS:
141 East Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

EXHIBIT

A

City of Holland 2015 Summer Property Tax Billing

Pay this tax to:

CITY OF HOLLAND
CITY TREASURER'S OFFICE
270 S. RIVER AVE
HOLLAND, MI 49423
Address Service Requested
03-57-53-012-212



PLEASE RETURN THIS PORTION WITH PAYMENT

This tax is due by: 08/17/2015

After 08/17/2015 ADD 2% FEE OF 400.53 and pay 20,921.07
After 09/10/2015 ADD 6% FEE OF 1,201.58 and pay 21,428.12
After 02/14/2016 ADD 9% FEE OF 1,802.37 and pay 22,028.91

AFTER 2/29/2016 CONTACT THE CITY TREASURER FOR LATE
CHARGES IN EFFECT

TAXPAYER NOTE: Is your name & mailing address
correct? If not, please make corrections. Thank You.

Make check payable to: CITY OF HOLLAND

Amount Due 08/17/2015 20,226.54

Amount Remitted: _____

ENERGETX COMPOSITES LLC
725 E 40TH ST
HOLLAND MI 49423



If paying by mail, please detach along perforation. Keep the bottom portion.

City of Holland 2015 Summer Property Tax Billing

<p>MESSAGE TO TAXPAYER</p> <p>PLEASE CHECK PROPERTY/PARCEL ID NUMBER/ADDRESS BEFORE PAYMENT. TREASURER NOT RESPONSIBLE FOR PAYMENT OF INCORRECT PROPERTY/PARCEL.</p>	<p>PAYMENT INFORMATION</p> <p>This tax is due by: 08/17/2015</p> <p>Make check payable to: CITY OF HOLLAND</p> <p>Pay by mail to: CITY OF HOLLAND CITY TREASURER'S OFFICE 270 S. RIVER AVE HOLLAND, MI 49423</p>																																													
<p>PROPERTY INFORMATION</p> <p>PROPERTY ASSESSED TO: ENERGETX COMPOSITES LLC 725 E 40TH ST HOLLAND, MI 49423</p> <p>PROPERTY #: 03-57-53-012-212 PROPERTY ADDRESS: 725 E 40TH ST</p> <p>TAXABLE VALUE: 1,433,600</p> <p>STATE EQUALIZED VALUE: 1,433,600</p> <p>PRE/MBT %: 100.0000</p> <p>CLASS: 3511 IND PA 198 PERSONAL SCHOOL: 03100 HAMILTON</p> <p>MORTGAGE CODE:</p> <p>PLEASE SEE BACK OF STATEMENT FOR ACCEPTABLE FORMS OF PAYMENT, AND OTHER IMPORTANT INFORMATION.</p> <p>SI NECESITAS AYUDA CON LA TRADUCCION EN ESPANOL, POR FAVOR PONGASE EN CONTACTO CON LA OFICIAN DEL TESORERO EN (616) 355-1380</p>	<p>TAX DETAIL</p> <p>Taxes are based upon Taxable Value. 1 mill equals \$1.00 per \$1,000 of Taxable Value. Amounts without a millage are either Special Assessments or other charges added to this bill.</p> <table border="1"> <thead> <tr> <th>TAXING AUTHORITY</th> <th>MILLAGE</th> <th>TAX AMOUNT</th> </tr> </thead> <tbody> <tr> <td>CITY DEBT SERV</td> <td>1.10990</td> <td>1,591.15</td> </tr> <tr> <td>CITY OPER-GEN</td> <td>4.75000</td> <td>6,809.60</td> </tr> <tr> <td>MUN CAP PROJ</td> <td>0.28825</td> <td>413.23</td> </tr> <tr> <td>STR IMPROV</td> <td>0.71340</td> <td>1,022.73</td> </tr> <tr> <td>SIDEWALK IMPROV</td> <td>0.02500</td> <td>35.84</td> </tr> <tr> <td>LIB - DEBT</td> <td>0.06810</td> <td>97.62</td> </tr> <tr> <td>LIB - OPERATING</td> <td>0.55000</td> <td>788.48</td> </tr> <tr> <td>HAM SCH-DEBT</td> <td>1.12500</td> <td>1,612.80</td> </tr> <tr> <td>HAM SCH-OPER</td> <td></td> <td>EXEMPT</td> </tr> <tr> <td>QAISD-ED PROG</td> <td>2.76170</td> <td>3,959.17</td> </tr> <tr> <td>STATE ED TAX</td> <td></td> <td>EXEMPT</td> </tr> <tr> <td>ALL COUNTY-OPER</td> <td>2.32885</td> <td>3,338.63</td> </tr> <tr> <td>MAX AUTHORITY</td> <td>0.19945</td> <td>285.93</td> </tr> <tr> <td>AIRPORT AUTH</td> <td>0.04960</td> <td>71.10</td> </tr> </tbody> </table>	TAXING AUTHORITY	MILLAGE	TAX AMOUNT	CITY DEBT SERV	1.10990	1,591.15	CITY OPER-GEN	4.75000	6,809.60	MUN CAP PROJ	0.28825	413.23	STR IMPROV	0.71340	1,022.73	SIDEWALK IMPROV	0.02500	35.84	LIB - DEBT	0.06810	97.62	LIB - OPERATING	0.55000	788.48	HAM SCH-DEBT	1.12500	1,612.80	HAM SCH-OPER		EXEMPT	QAISD-ED PROG	2.76170	3,959.17	STATE ED TAX		EXEMPT	ALL COUNTY-OPER	2.32885	3,338.63	MAX AUTHORITY	0.19945	285.93	AIRPORT AUTH	0.04960	71.10
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PAYMENT INFORMATION

Payment should be made at or mailed to: City of Holland
Office of the City Treasurer — City Hall
270 S. River Avenue
Holland, Michigan 49423-3299

Payment by check or money order: Make payable to: City of Holland. Please do not send cash through the mail.
Payment by credit card: On-line @ www.cityofholland.com, choose "Online Services" use jurisdiction code "7047"
By Phone 1-800-272-9829 or 1-877-278-9705, use jurisdiction code "7047"
At City Hall — Treasurer Office, 270 South River Avenue Holland

If paid by credit card, a 3% convenience fee will be added to your tax payment by the processing company.

To avoid mandated penalty, pay by August 17, 2015.

If you mail your tax payment and desire a receipt, send your payment along with the entire tax bill and a stamped self-addressed envelope.
Otherwise, send your payment along with just the top portion of the bill.

This is the only property tax statement provided for this parcel. As the deed-holder of this property you are responsible for timely payment. If you escrow your property taxes as part of your mortgage payment, it is your responsibility to be in contact with your escrow agent concerning this payment.

ADDITIONAL INFORMATION BY TELEPHONE (Monday thru Friday, 8:00 a.m. – 5:00 p.m.)

- Property Taxes: Contact the City Treasurer's Office, (616) 355-1380.
- Property Assessments and Valuations: Contact the City Property Assessing Office at (616) 355-1350.

ADDITIONAL INFORMATION BY WEB – INTERNET

- www.cityofholland.com, choose "Property and Tax"

PLEASE CHECK THE PROPERTY/PARCEL ID NUMBER/ADDRESS BEFORE PAYING TAX BILL. Treasurer not responsible for payment of incorrect property/parcel.

PROPERTY ADMINISTRATION FEE

As authorized by Michigan Public Act 503 of 1982, as amended, and City of Holland Ordinance Code 33.2, a one percent (1%) fee is applied to all property taxes and special assessments. The purpose is to offset administrative costs incurred by the City of Holland to properly assess property values, to review and/or litigate assessment appeals, to collect and distribute property taxes, and to pursue delinquent personal property taxes.

RESIDENTIAL PROPERTIES – DEFERRING THE TAX DUE DATE

Under authority of state statute, certain homestead property taxpayers (primarily senior citizens, disabled and handicapped persons) who meet the statutory provisions may apply for deferral of the summer property tax payment. Application for deferral should be filed with the Office of the City Treasurer **prior to August 17, 2015** for deferral until February 16, 2016. City Treasurer's Office staff members will assist in filing this application.

RESIDENTIAL PROPERTIES – TAX EXEMPTIONS

PRINCIPAL RESIDENCE – Michigan Public Act 74 of 1995 provides each home owner with a local school district operating tax exemption of 18 mills for property legally declared as their principal residence.

HOME REPAIRS – Michigan Public Act 25 of 1978 allows home owners to repair and maintain their property without increasing the assessed value until the home is sold, thereby avoiding a proportionate increase in the property taxes.

POVERTY – Michigan Statute Section MCL 211.7u provides the availability of homestead property tax exemption for those meeting provisions of the poverty policy, as adopted by the Holland City Council.

VETERAN – Michigan Public Act 161 of 2013 provides exemption for those meeting certain conditions specified in the law.

For further details on any of these exemptions, please contact the City's Property Assessing Office at (616) 355-1350.

PROPERTY VALUES

The State Equalized Value, Assessed Value and Taxable Value for this property were established on December 31, 2014. Property taxes are calculated on the Taxable Value. The SEV, which approximates 50% of market value, is included for comparative purposes.

FISCAL YEAR OF EACH TAXING JURISDICTION

Taxing units, whose jurisdictional boundaries encompass all or part of the City of Holland, levy property taxes as a major source of revenue. Below is the breakdown per tax billing/levy, as applicable to each taxing jurisdiction's fiscal year.

<u>Taxing Jurisdiction</u>	<u>Date of Property Tax Billing/Levy</u>	<u>Fiscal Year of Taxing Jurisdiction</u>
City of Holland	July 1, 2015	July 1, 2015 thru June 30, 2016
Herrick District Library	July 1, 2015	July 1, 2015 thru June 30, 2016
Holland Public Schools	July 1, 2015	July 1, 2015 thru June 30, 2016
Hamilton Community Schools	July 1, 2015 and Dec 1, 2015	July 1, 2015 thru June 30, 2016
Zeeland Public Schools	December 1, 2015	July 1, 2015 thru June 30, 2016
State of Michigan	Correlates to Specific School District	October 1, 2015 thru September 30, 2016
Ottawa Area Intermediate Schools	July 1, 2015	July 1, 2015 thru June 30, 2016
Holland Area Comm Pool Authority	July 1, 2015	July 1, 2015 thru June 30, 2016
MAX Transportation Authority	July 1, 2015	October 1, 2014 thru September 30, 2015
West MI Airport Authority	July 1, 2015	July 1, 2015 thru June 30, 2016
County of Allegan	July 1, 2015 and Dec 1, 2015	January 1 thru December 31, 2016
County of Ottawa	July 1, 2015 and Dec 1, 2015	January 1 thru December 31, 2016

City of Holland 2015 Summer Property Tax Billing ¹²¹¹⁸

Pay this tax to:

CITY OF HOLLAND
CITY TREASURER'S OFFICE
270 S. RIVER AVE
HOLLAND, MI 49423
Address Service Requested
03-50-53-050-515



PLEASE RETURN THIS PORTION WITH PAYMENT. THANK YOU.

This tax is due by: 08/17/2015 3,840.41

After 08/17/2015 ADD 2% FEE OF 76.05 and pay 3,916.46
After 09/10/2015 ADD 6% FEE OF 228.14 and pay 4,068.55
After 02/14/2016 ADD 9% FEE OF 342.22 and pay 4,182.63

AFTER 2/29/2016 CONTACT THE CITY TREASURER FOR LATE CHARGES IN EFFECT

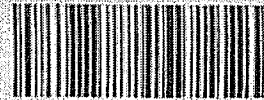
TAXPAYER NOTE: Is your name & mailing address correct? If not, please make corrections. Thank You.

Make check payable to: CITY OF HOLLAND

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Amount Remitted: _____

ENERGETX COMPOSITES LLC
725 E 40TH ST
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City of Holland	July 1, 2015	July 1, 2015 thru June 30, 2016
Herrick District Library	July 1, 2015	July 1, 2015 thru June 30, 2016
Holland Public Schools	July 1, 2015	July 1, 2015 thru June 30, 2016
Hamilton Community Schools	July 1, 2015 and Dec 1, 2015	July 1, 2015 thru June 30, 2016
Zeeland Public Schools	December 1, 2015	July 1, 2015 thru June 30, 2016
State of Michigan	Correlates to Specific School District	October 1, 2015 thru September 30, 2016
Ottawa Area Intermediate Schools	July 1, 2015	July 1, 2015 thru June 30, 2016
Holland Area Comm Pool Authority	July 1, 2015	July 1, 2015 thru June 30, 2016
MAX Transportation Authority	July 1, 2015	October 1, 2014 thru September 30, 2015
West MI Airport Authority	July 1, 2015	July 1, 2015 thru June 30, 2016
County of Allegan	July 1, 2015 and Dec 1, 2015	January 1 thru December 31, 2016
County of Ottawa	July 1, 2015 and Dec 1, 2015	January 1 thru December 31, 2016

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

_____/ /

**ORDER APPROVING MOTION TO AUTHORIZE DISTRIBUTION OF
SALE PROCEEDS PURSUANT TO 11 U.S.C. §725¹**

PRESENT: HONORABLE JOHN T. GREGG
United States Bankruptcy Judge

THIS MATTER having come to be heard upon the Trustee’s Motion to Authorize Distribution of Sale Proceeds Pursuant to 11 U.S.C. §725 (“Motion”); and the Motion having been served upon the creditor matrix in this matter and a hearing having been held on August ____, 2015 in Kalamazoo, Michigan; and the Court being otherwise fully advised in the premises and for the reasons stated on the record;

IT IS THEREFORE ORDERED:

1. That the Motion is granted.
2. That the Trustee is authorized to pay \$24,066.95 (plus any *per diem*, if necessary) of the Sale Proceeds, pursuant to 11 U.S.C. §725, to the City of Holland.

This Document Prepared By:

RAYMAN & KNIGHT

141 East Michigan Avenue, Suite 301

Kalamazoo, MI 49007

Telephone: (269) 345-5156

END OF ORDER

¹ All terms used in this Order shall have the meaning ascribed to them in the Trustee’s Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. §363 with Courtroom Auction.

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

__ / /

**MOTION TO REFUND PORTION OF SALE PROCEEDS REGARDING
MOTION FOR SALE OF PERSONAL PROPERTY
FREE AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363
WITH COURTROOM AUCTION**

NOW COMES Thomas C. Richardson, Trustee (“Trustee”), by and through his attorneys, Rayman & Knight, and for his Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction (“Motion”), hereby says as follows:

JURISDICTION

1. That jurisdiction over this case and proceeding exist in this Court under 28 U.S.C. §1334(a) and (b) and by reference from the District Court in accordance with 28 U.S.C. §157(a). Determination of this Motion is a core proceeding, as defined in 28 U.S.C. §157(b), arising under the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*, “Bankruptcy Code”).

2. Venue of this Motion is properly placed in this Court pursuant to 28 U.S.C. §1409(a).

BACKGROUND

3. On February 26, 2015 (“Petition Date”) Energetx Composites, LLC (“Energetx”) filed for relief under Chapter 7 of the Bankruptcy Code.

4. The Trustee is the duly appointed and acting Chapter 7 Trustee in this proceeding.

5. Prior to the bankruptcy, Energetx was engaged in the business of manufacturing

wind turbine blades.

6. The Trustee received an offer from Composite Builders, LLC (“Purchaser”) to purchase certain of the Debtor’s remaining assets more fully described as:

- a. Two of Swedish Heaters - NPS11.6M;
- b. One of Busch Vacuum Pump, Unit #8, single unit/vertical tank, digital vacuum gauge. (RC0063.E506.1003); and
- c. One of Econoline Media Blast Cabinet W/Dust Collection. 101691G-A (collectively, the “Property”).

7. The offer price to purchase the Property was \$7,500.00.

8. The Trustee filed a certain Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction [DN 64] (“Sale Motion”) which was approved on July 8, 2015 via a certain Order Approving Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction [DN 74] (“Sale Order”).

10. Unfortunately the Property consisted of only one Swedish Heater - NPS11.6M and not two. The Purchaser wanted to retain the remaining Property but did wish to obtain a refund for the value of the missing Swedish Heater - NPS11.6M.

11. The Trustee and the Purchaser agreed that \$2,600.00 is a fair refund as the approximate value for the missing Swedish Heater - NPS11.6M. After consultation with the Debtor’s principal, the Trustee believes it is a fair allocation.

RELIEF REQUESTED

12. Apparently there were at one time two Swedish Heater - NPS11.6M, but one had been previously sold and unfortunately the equipment list was not properly updated. The Purchaser was very understanding and cooperative and the Trustee believes it is in the best

interest of the Estate to return the sum of \$2,600.00 as soon as possible.

13. That the Trustee has no personal interest in the subject matter of the settlement with the Purchaser

14. That the settlement with the Purchaser is in the best interests of the estate.

15. That a Court's obligation with respect to evaluating a Trustee's business judgment in a settlement context is to "canvass the issues and see whether the settlement 'falls below' the lowest point in the range of reasonableness." *In re Dow Corning Corp.*, 192 B.R. 415, 421 (Bankr. E.D. Mich. 1996) (quoting *Drexel Burnham Lambert*, 134 B.R. 493, 496 (Bankr. S.D.N.Y. 1991)).

16. The Trustee believes that this settlement falls within the range of reasonableness and is in the best interest of the estate.

WHEREFORE, your Trustee requests that this Court enter an Order in the form accompanying this Motion approving the Trustee's decision to enter into the settlement as an appropriate exercise of the Trustee's reasonable business judgment and to authorize the return of \$2,600.00.

RAYMAN & KNIGHT
Attorneys for Trustee

Dated: July 23, 2015

By: _____/s/_____
Cody H. Knight (P64811).

BUSINESS ADDRESS:
141 East Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

//

**ORDER APPROVING MOTION TO REFUND PORTION OF SALE PROCEEDS
REGARDING MOTION FOR SALE OF PERSONAL PROPERTY
FREE AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363
WITH COURTROOM AUCTION¹**

PRESENT: HONORABLE JOHN T. GREGG
United States Bankruptcy Judge

THIS MATTER having come to be heard upon the Trustee's Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. §363 with Courtroom Auction ("Motion"); and the Motion and Order Approving Motion for an Expedited Hearing Regarding the Motion having been served upon the creditor matrix in this matter and a hearing having been held on August 3, 2015 in Kalamazoo, Michigan; and the Court being otherwise fully advised in the premises and for the reasons stated on the record;

IT IS THEREFORE ORDERED:

1. That the Motion is granted.
2. That the Trustee is authorized to refund \$2,600.00 to Purchaser.

This Document Prepared By:
RAYMAN & KNIGHT
141 East Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

END OF ORDER

¹ All terms used in this Order shall have the meaning ascribed to them in the Trustee's Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. §363 with Courtroom Auction.

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

//

EX PARTE MOTION TO SHORTEN NOTICE REGARDING:

MOTION TO REFUND PORTION OF SALE PROCEEDS REGARDING
MOTION FOR SALE OF PERSONAL PROPERTY
FREE AND CLEAR OF LIENS PURSUANT TO 11 U.S.C. § 363
WITH COURTROOM AUCTION

NOW COMES Thomas C. Richardson, Trustee (“Trustee”), by and through his attorneys, Rayman & Knight, and for his *Ex Parte* Motion to Shorten Notice Regarding Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction (“Motion”), hereby says as follows:

JURISDICTION

1. That jurisdiction over this case and proceeding exist in this Court under 28 U.S.C. §1334(a) and (b) and by reference from the District Court in accordance with 28 U.S.C. §157(a). Determination of this Motion is a core proceeding, as defined in 28 U.S.C. §157(b), arising under the United States Bankruptcy Code (11 U.S.C. §101 *et seq.*, “Bankruptcy Code”).

2. Venue of this Motion is properly placed in this Court pursuant to 28 U.S.C. §1409(a).

BACKGROUND

3. On February 26, 2015 (“Petition Date”) Energetx Composites, LLC (“Energetx”) filed for relief under Chapter 7 of the Bankruptcy Code.

4. The Trustee is the duly appointed and acting Chapter 7 Trustee in this proceeding.

5. The Trustee received an offer from Composite Builders, LLC (“Purchaser”) to purchase certain of the Debtor’s remaining assets more fully described as:

- a. Two of Swedish Heaters - NPS11.6M;
- b. One of Busch Vacuum Pump, Unit #8, single unit/vertical tank, digital vacuum gauge. (RC0063.E506.1003); and
- c. One of Econoline Media Blast Cabinet W/Dust Collection. 101691G-A (collectively, the “Property”).

6. The offer price to purchase the Property was \$7,500.00.

7. The Trustee filed a certain Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction [DN 64] (“Sale Motion”) which was approved on July 8, 2015 via a certain Order Approving Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction [DN 74] (“Sale Order”).

8. Unfortunately the Property consisted of only one Swedish Heater - NPS11.6M and not two. The Purchaser wanted to retain the remaining Property but did wish to obtain a refund for the value of the missing Swedish Heater - NPS11.6M. The Trustee and the Purchaser agreed that \$2,600.00 is a fair refund as the approximate value for the missing Swedish Heater - NPS11.6M. After consultation with the Debtor’s principal, the Trustee believes it is a fair allocation. The Trustee filed a certain Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction (“Refund Motion”).

9. The Trustee sold an item and the Purchaser paid for an item that did not exist, it is important in this matter and for the Bankruptcy system in general to correct these types of

matters as soon as possible.

WHEREFORE, your Trustee requests that this Court enter an Order in the form accompanying this Motion

RAYMAN & KNIGHT
Attorneys for Trustee

Dated: July 23, 2015

By: _____/s/_____
Cody H. Knight (P64811).

BUSINESS ADDRESS:
141 East Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

IN THE MATTER OF:

ENERGETX COMPOSITES, LLC,

Case No.: 15-01016

Chapter 7 – Filed: 02/26/2015

Debtor.

_____/ /

**ORDER APPROVING *EX PARTE* MOTION TO SHORTEN NOTICE REGARDING MOTION
TO REFUND PORTION OF SALE PROCEEDS REGARDING MOTION FOR SALE OF
PERSONAL PROPERTY FREE AND CLEAR OF LIENS
PURSUANT TO 11 U.S.C. § 363 WITH COURTROOM AUCTION**

PRESENT: HONORABLE JOHN T. GREGG
United States Bankruptcy Judge

THIS MATTER having come to be heard upon the Debtor's *Ex Parte* Motion to Shorten Notice Regarding Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction (“Motion to Shorten Notice”); and the Court being otherwise fully advised in the premises;

IT IS THEREFORE ORDERED:

1. That the Motion to Shorten Notice is granted.
2. That Notice of the Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction is hereby shortened to permit a hearing on **August 3, 2015 at 10:00 a.m. at the Federal Building, U.S. Courthouse, 410 West Michigan Avenue, Kalamazoo, Michigan;** and
3. That service of this Order and the Motion to Refund Portion of Sale Proceeds Regarding Motion for Sale of Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. § 363 With Courtroom Auction shall be served upon all creditors and parties in interest by close of business on July 24, 2015.

This Document Prepared By:
RAYMAN & KNIGHT
141 E. Michigan Avenue, Suite 301
Kalamazoo, MI 49007
Telephone: (269) 345-5156

END OF ORDER