

So Ordered.



Frederick P. Corbit

Dated: April 30th, 2019

Frederick P. Corbit
Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:

GIGA WATT, Inc., a Washington
corporation,

Debtor.

Case No. 18-03197

The Honorable Frederick P. Corbit

Chapter 11

MARK D. WALDRON, in his
capacity as the duly-appointed
Chapter 11 Trustee,

vs.

DAVID M. CARLSON and JANE
DOE 1, individually and on behalf of
the marital estate, ENTERPRISE
FOCUS, INC., a Washington
corporation, CLEVER CAPITAL,
LLC, a Washington limited liability
company, JEFFREY FIELD, ROB
TAVIS, and JANE DOES 2
THROUGH 15

Adv. Pro. No. 19-80012

**AMENDED ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION AND TEMPORARY
RESTRAINING ORDER**

1 This matter came before this Court on the (i) *Motion of the Chapter 11*
2 *Trustee for Order to Show Cause for Preliminary Injunction and Temporary*
3 *Restraining Order*, filed on April 22, 2019, and (2) the *Verified Complaint for*
4 *Avoidance and Recovery of Fraudulent Transfers and/or Preferential Transfers;*
5 *Breach of Fiduciary Duty; Turnover; and Injunctive Relief; and the Chapter 11*
6 *Trustee’s Objections to Claims of David M. Carlson (Claims Nos. 318 and 319)*
7 *and of Clever Capital LLC (Claim No. 320)* (the “Verified Complaint”), filed on
8 April 22, 2019. Unless otherwise defined herein, capitalized terms used in this
9 Order have the meanings ascribed to them in the Verified Complaint. Pursuant to
10 Federal Rule of Bankruptcy Procedure 7052, the Court’s oral ruling constitutes its
11 findings of fact and conclusions of law. Those findings of fact include the Court’s
12 finding that all parties have agreed to conduct the preliminary hearing on May 23,
13 2019 and that this Temporary Restraining Order shall remain in effect until May
14 23, 2019. Accordingly, it is hereby:

15 **ORDERED** that the above-named defendants show cause before this Court
16 at 904 West Riverside Avenue, Spokane, WA 99201, Courtroom 358, on May 23,
17 2019 at 10:00 a.m. or as soon thereafter as counsel may be heard, why an order
18 should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure,
19 as modified and applicable herein pursuant to Rule 7065 of the Federal Rules of
20 Bankruptcy Procedure (the “Bankruptcy Rules), enjoining the above-named
21 Defendants during the pendency of this adversary proceeding from controlling,
22 disposing of, transferring, encumbering or possessing any of the assets transferred
23 pursuant to the TNT Transfer, or occupying the buildings or asserting any interest

24 Amended Order to Show Cause for Preliminary
25 Injunction and Temporary Restraining Order - Page 2

1 or control in any of the TNT Leases or infrastructure and assets of the TNT
2 Facility; and it is further

3 **ORDERED** that, sufficient reason having been shown pending the hearing
4 of the Plaintiff's application for a preliminary injunction, the Defendants are
5 temporarily restrained and enjoined from controlling, disposing of, transferring,
6 encumbering or possessing any of the assets transferred pursuant to the TNT
7 Transfer, or occupying the buildings or asserting any interest or control in any of
8 the TNT Leases or assets of the TNT Facility until May 23, 2019, the date agreed
9 to by the parties; and it is further

10 **ORDERED** that during the term of this Order, the Trustee, counsel for the
11 Trustee, and the Trustee's representative, Lauren Mieke, are hereby authorized to
12 enter and inspect the TNT Facility during normal working hours as the Trustee
13 determines in his discretion is necessary; and it is further

14 **ORDERED** that pursuant to Bankruptcy Rule 7065(c), the Trustee is not
15 required to post any security and such required is waived; and it is further

16 **ORDERED** that the parties shall immediately confer regarding the scope
17 and scheduling of discovery; and it is further

18 **ORDERED** that on or before May 16, 2019, the Trustee shall file with the
19 Court a list of witnesses and exhibits for the show cause hearing; and it is further

20 **ORDERED** that on or before May 16, 2019, the Trustee shall serve a copy
21 of this order by email and first-class mail upon counsel for Defendant Carlson,
22 Defendant Clever Capital and by first class mail upon the remaining Defendants
23

1 and such service shall be deemed good and sufficient service thereof; and it is
2 further

3 **ORDERED** that opposing papers, together with a list of witnesses and
4 exhibits for the show cause hearing, if any, shall be filed with the Court and
5 served upon Pamela M. Egan, by email at pegan@ckrlaw.com, attorney for the
6 Plaintiff, and by first-class mail upon James Perkins, Office of the United States
7 Trustee, Office of The United States Trustee, 920 West Riverside Avenue, Suite
8 593, Spokane, WA 99201-1012, on or before May 16, 2019; and it is further

9 **ORDERED** that the Trustee's entitlement to recover from the Defendants
10 the attorneys' fees and costs that the estate incurred with respect to this
11 Emergency Application, will be resolved at a later date.

12
13 **/// END OF ORDER ///**

14 Presented by:

15 CKR LAW LLP

16 */s/ Pamela M. Egan*

17 Pamela M. Egan (WSBA 54736)

18 506 2nd Avenue, 14th floor

19 Seattle, WA 98114

20 Tel.: 415-297-0132

21 E: pegan@ckrlaw.com

22 *Of attorneys for Mark Waldron in his capacity*
23 *as the duly-appointed Chapter 11 Trustee*

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25 Injunction and Temporary Restraining Order - Page 4

Notice Recipients

District/Off: 0980-2
Case: 19-80012-FPC

User: notice
Form ID: pdf002

Date Created: 4/30/2019
Total: 6

Recipients of Notice of Electronic Filing:

aty Pamela Marie Egan pegan@ckrlaw.com

TOTAL: 1

Recipients submitted to the BNC (Bankruptcy Noticing Center):

pla Mark D. Waldron Law Offices of Mark D. Waldron, PLLC 6711 Regents Blvd. W. Suite
B Tacoma, WA 98466
ust US Trustee US Court House 920 W Riverside Ave, Suite 593 Spokane, WA 99201
Kathryn R McKinley Paine Hamblen LLP 717 W Sprague Ave, Ste 1200 Spokane, WA 99201
Vanessa Pierce Rollins Bowman Pierce LLC 123 Springhill Dr East Wenatchee, WA 98802
Nicholas Wallace Schultheis Tabler Wallace PLLC 56 C Street NW PO Box 876 Ephrata,
WA 98823

TOTAL: 5