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9 Attorneys for Defendant Jeffrey Field

10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF WASHINGTON

12 In re:

13 GIGA WATT, INC., a Washington
14 corporation,

15 Debtor.

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

18 Plaintiff,

19 vs.

20 DAVID M. CARLSON and JANE DOE 1,
21 individually and on behalf of the marital
22 estate, ENTERPRISE FOCUS, INC., a
23 Washington corporation, CLEVER CAPITAL,
24 LLC, a Washington limited liability
25 company, JEFFERY FIELD, ROB TAVIS, AND
26 JANE DOES 2 THROUGH 5

Defendant.

Case No. 18-03197

The Honorable Frederick P. Corbit

NOTICE OF MOTION TO DISMISS
PLAINTIFF'S VERIFIED COMPLAINT
AS TO DEFENDANT JEFFREY FIELD

Adv. P. No. 19-80012

TO: Clerk, U.S. Bankruptcy Court;

1 AND TO: Pamela M. Egan and William R. Firth, III, Attorneys for Chapter
2 11 Trustee Mark D. Waldron;

3 AND TO: Benjamin J. McDonnell and Jason T. Piskel, Attorneys for
4 Defendants David M. Carlson, Enterprise Focus, Inc., and
5 Clever Capital, LLC

6 NOTICE IS HEREBY GIVEN that Jeffrey Field ("Field"), a defendant in the
7 above adversary proceeding, has filed a motion to dismiss for failure to state a
8 claim under BR 7012(b)(6).

9 In his Motion, Field requests the Court to dismiss Field from Plaintiff's
10 adversary proceeding because Plaintiff's Verified Complaint fails to plead facts
11 that state a claim against him. The grounds for NCB's Motion are summarized as
12 follows:
13

14 1. On about April 22, 2019, Plaintiff sued Field and others by filing
15 Plaintiff's Verified Complaint (ECF No. 281).
16

17 2. Field's deadline to answer Plaintiff's Verified Complaint is May 23,
18 2019. (ECF No. 13).
19

20 Plaintiff's Verified Complaint names Field as a defendant, but pleads no
21 facts on which Plaintiff seeks to state a claim against Field. (ECF No. 281).
22

23 Plaintiff's Verified Complaint also fails to identify any alleged cause of action
24 directed to Field, or facts supporting that cause of action. Id. Rather, it
25

26 references Field in only three places, and reads as follows:

1 16. Upon information and believe [sic] Defendant, Jeffrey
2 Field, is a shareholder of Defendant Enterprise.

3 20. On January 1, 2017, Defendant Carlson, Defendant
4 Enterprise, Defendant Field and Defendant Tavis, on the one hand,
5 and Giga Watt, on the other hand, entered into that certain Bill of
6 Sale and Assignment and Assumption Agreement (the "Sale and
7 Assignment Agreement"). A copy of the Sale and Assignment
8 Agreement is attached hereto as Exhibit A.

9 22. Pursuant to the Sale and Assignment Agreement,
10 Defendants Carlson, Enterprise, Field and Tavis sold and assigned to
11 Giga Watt all of their assets, interests and good will in
12 "MegaBigPower" for a purchase price of \$3 million.

13 (ECF No. 281).

14 Plaintiff's pled alleged facts, even if true, fail to state a claim against Field.

15 FRCP 12(b)(6).

16 YOU ARE HEREBY NOTIFIED that you have **twenty-four (24)** days from the
17 date of this Notice to file any objection to the relief requested. Any objection to
18 the proposed relief must be filed with the Clerk of the Bankruptcy Court at 904
19 West Riverside Avenue, Room 304, Spokane, WA 99210, or mailed for filing to
20 the Court Clerk at P.O. Box 2164, Spokane, WA 99210-2164, on or before the
21 expiration of the deadline for filing objections, and served upon Brian A. Walker,
22 Attorney for Field, at the address set out above. Should you fail to object within
23 the allotted time period, the relief requested may be entered without further
24 notice to you.
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DATED this 21st day of May, 2019.

OGDEN MURPHY WALLACE, P.L.L.C.

By s/ Brian A. Walker

BRIAN A. WALKER, WSBA #26586
CHRISTINA M. DAVITT, WSBA #41272
Attorneys for Jeffrey Field

CERTIFICATE OF SERVICE

I certify under the laws of the United States of America that on the 21st day of May, 2019, I caused to be filed **Notice of Motion to Dismiss Plaintiff’s Verified Complaint as to Defendant Jeffrey Field** through CM/ECF causing a true and correct copy of the foregoing to be served electronically upon all parties of record.

DATED this 21st day of May, 2019.

s/ Brian A. Walker

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