

ORIGINAL

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

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NORTHERN DISTRICT OF OHIO  
CLEVELAND

In re: ) Case No. 04-10686  
PS EXECUTIVE CENTER, INC., ) Chapter 11  
Debtor. ) Judge Arthur I. Harris

ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED OR  
CONVERTED TO CHAPTER 7 PURSUANT TO 11 U.S.C. § 1112(b)

This Chapter 11 case was filed on January 21, 2004. The case has now been pending for more than a year and a half. A disclosure statement and reorganization plan have never been filed. On May 31, 2005, the Court held a status conference and was informed that a plan and disclosure statement would be filed. The plan and disclosure statement remain unfiled.

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COMMISSIONER  
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SEC 1  
OTH Grant

Under 11 U.S.C. § 1112(b):

[T]he court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including—

- (1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;
- (2) inability to effectuate a plan;
- (3) unreasonable delay by the debtor that is prejudicial to creditors;
- ....

Under 11 U.S.C. § 105(a), a court may seek dismissal or conversion under

11 U.S.C. § 1112(b) sua sponte. *See, e.g., In re Tax Shop, Inc.*, 173 B.R. 605, 607

n.3 (Bankr. E.D. Mich. 1994). In the present case, the Court believes that cause

for conversion or dismissal under subsection 1112(b) may include:

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- absence of a reasonable likelihood of rehabilitation
- inability to effectuate a plan
- unreasonable delay by the debtor that is prejudicial to creditors.

While the Court is reluctant to take any action that might work to the detriment of the debtor's estate, the Court is concerned that inaction may itself be detrimental.

Accordingly, the Court will hold a hearing **on September 13, 2005, at 11 a.m. or as soon as it can be heard after 11 a.m. and the conclusion of the normal Chapters 7 & 11 docket scheduled for that morning, in Courtroom 1A of the Metzenbaum Courthouse, 201 Superior Avenue, Cleveland, Ohio 44114**, for the Chapter 11 debtor and any other parties in interest to show cause why the case should not be dismissed or converted to Chapter 7 for cause pursuant to 11 U.S.C. § 1112(b).

IT IS SO ORDERED.



Arthur I. Harris  
United States Bankruptcy Judge

parties to serve:

debtor, U.S. Trustee, all counsel & all creditors

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