

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

In re:

ELENAROSE CAPITAL LLC, ET AL.,¹

Debtor.

Case No. 23-70665-AKM-11

(Joint Administration Requested)

**DECLARATION OF LOUIS CAPOLINO IN SUPPORT OF DEBTORS' CHAPTER 11
PETITIONS AND FIRST DAY MOTIONS**

1. I, Louis Capolino ("**Affiant**"), am over the age of 18 years old and have personal knowledge of the matters stated herein.

2. This Declaration has been prepared in connection with the Chapter 11 bankruptcy cases filed by the following: ElenaRose Capital LLC ("**ElenaRose**"); Transport Acquisitions LLC ("**Transport Acquisitions**"); Elmer Buchta Trucking LLC ("**Buchta Trucking**"); Buchta Leasing, LLC ("**Buchta Leasing**"); and WBF, LLC ("**WBF**"), as debtors and debtors-in-possession (collectively, "**Debtors**").

3. Debtors are all affiliates of one another.

4. Affiant is the sole owner/member of ElenaRose.

5. ElenaRose is a holding company that owns 90% of Transport Acquisitions.

6. Transport Acquisitions is a holding company that owns 100% of Buchta Trucking, Buchta Leasing, and WBF.

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number are, Elmer Buchta Trucking LLC (9591); Transport Acquisitions LLC (5931); Buchta Leasing, LLC (1217); WBF, LLC (4264); and ElenaRose Capital LLC (0259).

7. Buchta Trucking, Buchta Leasing, and WBF (collectively, the "**Operating Entities**") are the operating entities, which among other things, provide bulk, dry van, and pneumatic transport services to its customers.

8. The Operating Entities maintain books and records as part of their regular business practice (the "**Business Records**").

9. The Operating Entities' Business Records are generated by Doug Prohaski, a person with knowledge of the relevant facts contained in such records or made from information transmitted by a person with knowledge of the relevant facts contained in such records. The Operating Entities' Business Records are made at or near the time of the acts, events, or transactions that are the subject of such records.

10. Affiant has access to and has reviewed the Operating Entities' Business Records relating to the matters referenced in this Declaration. Accordingly, Affiant has personal knowledge relating to these matters.

Events Leading to Chapter 11 Filings

11. Coal transportation is a fundamental part of the Operating Entities businesses.

12. On December 1, 2022, ElenaRose purchased 90% of Transport Acquisitions.

13. Since then, the price of coal has significantly increased, resulting in customers reducing their use of coal.

14. Because the Operating Entities rely heavily on the transportation of coal to generate revenue, the decreased revenue from customers reduction in coal use has caused cash flow issues.

Secured Loans/Creditors

15. As a result of Debtors' preliminary investigation and analysis, the following creditors (the "**Creditors**") may hold interests or may assert liens against Debtors' assets:

Debtor	Creditor	Collateral
ElenaRose Capital LLC	KTB Equity, Inc.	All Assets of Debtor
Elmer Buchta Trucking LLC	KTB Equity, Inc.	All Assets of Debtor
Buchta Leasing LLC	KTB Equity, Inc.	All Assets of Debtor
Buchta Leasing LLC	VFS US LLC & VFS Leasing Co.	Equipment and/or vehicles financed or lease by Creditor
WBF, LLC	KTB Equity, Inc.	All Assets of Debtor
Elmer Buchta Trucking LLC	Peapack Capital	Collateral Schedule 001 Collateral Schedule 002 Collateral Schedule 003
Buchta Leasing LLC	Peapack Capital	Collateral Schedule 001 Collateral Schedule 002 Collateral Schedule 003
WBF, LLC	Peapack Capital	Collateral Schedule 001 Collateral Schedule 002 Collateral Schedule 003

16. Other than the Creditors, Affiant is not aware of any other obligations that are secured by the operating assets (including cash collateral) of Debtors.

Employee Wages/Benefits**A. Buchta Trucking**

17. Buchta Trucking currently has eighty-three (83) employees, all of which are paid on an hourly basis or are salaried employees (the "**Trucking Employees**").

18. Eighty-one (81) of the Trucking Employees are paid weekly for time worked during the prior week. Two (2) of the Trucking Employees are paid bi-weekly for time worked during the prior two (2) weeks.

19. Prior to each Friday payroll, on Tuesday and Wednesday Buchta Trucking inputs hourly and salary information into its QuickBooks payroll program. Thereafter, Buchta Trucking makes a payment to the QuickBooks payroll program. On Friday, QuickBooks issues payment to all Trucking Employees, except for the two (2) Trucking Employees that are paid bi-weekly, for which this process only applies on the weeks that those two (2) Trucking Employees are to be paid.

20. Each pay period, as required by law, Buchta Trucking withholds amounts from each Trucking Employee for federal, state, and local income taxes; Social Security (FICA) and Medicare taxes; and, if applicable, court-ordered garnishment contributions, including payments required to a Chapter 13 Trustee under a Wage Order, and/or other court-ordered withholding payments.

21. Buchta Trucking's last payroll was on September 8, 2023 for all Trucking Employees, including the two (2) bi-weekly Trucking Employees.

22. Buchta Trucking is seeking authority to pay prepetition wages and salaries that accrued prior to the Petition Date and are scheduled to be paid on September 15, 2023 for weekly Trucking Employees, and September 22, 2023 for bi-weekly Trucking Employees.

23. Based on Buchta Trucking's records, all wages and salaries at issue were earned within 180 days before the Petition Date and do not exceed \$15,150.00 per Trucking Employee.

24. Without the authority requested in *Elmer Buchta Trucking LLC's First Day Motion for Authority to Pay Prepetition Wages and Salaries; and Prepetition Withholding and Other Taxes*, outstanding prepetition payroll and related payments may be dishonored and/or delayed, and not only may cause hardship to innocent Trucking Employees that rely on the payroll to pay personal and family expenses, but such Trucking Employees may leave Buchta Trucking's employ.

B. Buchta Leasing

25. Buchta Leasing currently has twenty-three (23) employees, all of which are paid on an hourly basis or are salaried employees (the "**Leasing Employees**").

26. The Leasing Employees are paid weekly for time worked during the prior week.

27. Prior to each Friday payroll, on Tuesday and Wednesday Buchta Leasing inputs hourly and salary information into its QuickBooks payroll program. Thereafter, Buchta Leasing makes a payment to the QuickBooks payroll program. On Friday, QuickBooks issues payment to all Leasing Employees.

28. Each pay period, as required by law, Buchta Leasing withholds amounts from each Leasing Employee for federal, state, and local income taxes; Social Security (FICA) and Medicare taxes; and, if applicable, court-ordered garnishment contributions, including payments required to a Chapter 13 Trustee under a Wage Order, and/or other court-ordered withholding payments.

29. Buchta Leasing's last payroll was on September 8, 2023 for all Leasing Employees.

30. Buchta Leasing is seeking authority to pay prepetition wages and salaries that accrued prior to the Petition Date and are scheduled to be paid on September 15, 2023.

31. Based on Buchta Leasing's records, all wages and salaries at issue were earned within 180 days before the Petition Date and do not exceed \$15,150.00 per Leasing Employee.

32. Without the authority requested in *Buchta Leasing LLC's First Day Motion for Authority to Pay Prepetition Wages and Salaries; and Prepetition Withholding and Other Taxes*, outstanding prepetition payroll and related payments may be dishonored and/or delayed, and not only may cause hardship to innocent Leasing Employees that rely on the payroll to pay personal and family expenses, but such Leasing Employees may leave Buchta Leasing's employ.

Cash Collateral

33. As of the Petition Date, Debtors believe the value of their assets (the "**Collateral**"), which may be subject to the alleged interests of the creditors that claim a security interest, do not exceed the total amount owed to the Creditors (as defined below).

34. Debtors above estimation of the value of the Collateral is a good faith estimate which may or may not be the actual value of all of the Collateral, and Debtors reserve the right to file their Schedules and Statements or Amended Schedules and Statements with differing amounts.

35. Debtors have performed a preliminary investigation and analysis of the related UCC filings and based upon this preliminary investigation believes that the assets of Debtors may serve as collateral to secure the payment of certain of the above-

referenced obligations. Debtors do not concede, however, that any asserted interest is a valid, perfected, or enforceable prepetition lien on and to any of the assets nor do Debtors concede the priority of any one creditor's interest. Debtors expressly retain the right to contest the validity, perfection, and enforceability of all alleged interests.

36. Debtors believe any obligations they may have to any of the Creditors arises under a trade agreement or a security agreement.

37. On the Petition Date, Debtors had limited cash on hand or on deposit but were owed payment for their services under multiple agreements, each of which may be "cash collateral" and, further, certain of Debtors' Petition Date cash and cash equivalents (cash and accounts receivable) may constitute "cash collateral" (collectively, the "**Cash Collateral**").

38. In order to permit, among other things, the orderly and continued operation of Debtors' businesses, Debtors have an immediate need to use Cash Collateral in which Creditors may assert an interest. The use of Cash Collateral is necessary to prevent immediate and irreparable harm to Debtors and their property that would otherwise result if Debtors are prevented from obtaining use of Cash Collateral to ensure continuation of their operations.

39. Debtors have no present alternative borrowing source from which to secure sufficient additional funding to continue operations without utilizing Cash Collateral.

40. Debtors are unable to operate their businesses without interim use of Cash Collateral.

41. Without interim relief, Debtors will not be able to continue operating for more than a short period of time until a final hearing on *Debtors' First Day Motion for Entry of*

Interim and Final Orders Authorizing Debtors to Use Cash Collateral for Operating Expenses and Granting Replacement Liens to Secured Creditors (the "**Cash Collateral Motion**") can be held.

42. The proposed budget, attached to the Cash Collateral Motion as Exhibit 1, includes projected revenue and expenses on a monthly basis.

43. One such expense is payments required to be made to First Insurance Funding pursuant to a Premium Finance Agreement, a copy of which is attached to the Cash Collateral Motion as Exhibit 2.

I AFFIRM UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION AND BELIEF.



Louis Capolino, Affiant