

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re:)	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹)	Case No. 19-12239 (CSS)
Debtor.)	

**MOTION OF DEBTOR FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING DEBTOR TO FILE UNDER SEAL PORTIONS OF ITS CREDITOR
MATRIX CONTAINING EMPLOYEE ADDRESS INFORMATION**

The above-captioned debtor and debtor in possession (the “Debtor”) hereby files this motion (this “Motion”), pursuant to sections 105(a) and 107(c)(1) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 9018-1 of the of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for the entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), and a final order following a further hearing: (a) authorizing the Debtor to file a redacted version of its creditor matrix without publicly disclosing employee address information, (b) authorizing the Debtor to file under seal an unredacted version of its creditor matrix, and (c) granting such other relief as the Court deems just and proper. In support of this Motion, the Debtor respectfully represents as follows:

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.



Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtor confirms its consent pursuant to Local Rule 9013-1(f) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

3. The statutory basis for the relief requested herein are sections 105(a) and 107(c)(1) of the Bankruptcy Code and Local Rule 9018-1.

Background

4. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor has continued in the possession of its property and has continued to operate and manage its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or committee has been appointed in this chapter 11 case.

5. A more detailed description of the business and operations of the Debtor, and the events leading to the commencement of this chapter 11 case, is provided in the

Declaration of Frank Waterhouse in Support of First Day Motions, filed concurrently herewith (the “Declaration”) and incorporated herein by reference.²

RELIEF REQUESTED

6. By this Motion, the Debtor seeks the entry of the Proposed Order: (a) authorizing the Debtor to file a redacted version of the creditor matrix without publicly disclosing employee address information, (b) authorizing the Debtor to file under seal an unredacted version of the creditor matrix, and (c) granting such other and further relief as the Court deems just and proper.

BASIS FOR RELIEF REQUESTED

7. The relief requested by the Debtor is authorized under sections 105(a) and 107(c)(1) of the Bankruptcy Code. Specifically, section 105(a) of the Bankruptcy Code provides that “[t]he court may issue an order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 107(c) of the Bankruptcy Code provides that the Court “for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft . . . [a]ny means of identification . . . contained in a paper filed, or to be filed in a case under” the Bankruptcy Code. 11 U.S.C. § 107(c)(1)(A).

8. Local Rule 9018-1(d) requires any party who seeks to file documents under seal to file a motion to that effect. *See* Del. Bankr. L.R. 9018-1(d).

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Declaration.

9. In the present case, the Debtor respectfully submits that cause exists to authorize the Debtor to redact the address information of individual employees from the creditor matrix because such information: (a) is private and confidential, (b) could be used to perpetrate identity theft – which has occurred in the past with certain of the Debtor’s employees, (c) would potentially allow competitors to poach the Debtor’s employees at the expense of this estate; and (d) could pose other risks to employees.

10. The benefit of including such information on the publicly filed matrix is far outweighed by the potential risks for the Debtor’s individual employees.

11. If the relief requested herein is granted, the unredacted matrix will be filed and remain under seal until further order of the Court. The Debtor will share the unredacted matrix with the Office of the United States Trustee upon request and the Debtor proposes that any party-in-interest who seeks to review the unredacted matrix may submit a request in writing to the Debtor. If the Debtor and the party seeking access to the unredacted matrix are unable to reach agreement on the terms of reviewing the unredacted matrix, the party may seek the assistance of this Court by filing a motion and make an appropriate showing for the Court to evaluate whether or not the unredacted matrix should be made available and under what terms. Upon any such motion seeking access to the unredacted matrix, the Debtor could continue to try and resolve the matter or present its opposition to the Court for consideration at a hearing on appropriate notice.

12. Therefore, the Debtor requests that the Court enter an order permitting the Debtor to file the creditor matrix under seal.

NOTICE

13. Notice of this Motion shall be given to the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee; (b) the Office of the United States Attorney for the District of Delaware; (c) the Debtor's twenty largest unsecured creditors; and (d) the Debtor's principal secured parties. As the Motion is seeking "first day" relief, within two business days after the hearing on the Motion, the Debtor will serve copies of the Motion and any order entered respecting the Motion as required by Del. Bankr. LR 9013-1(m). The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

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WHEREFORE, the Debtor respectfully requests entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: October 16, 2019

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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*Proposed Counsel for the Debtor
and Debtor in Possession*

EXHIBIT A

Proposed Order

proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. Subject to a final order on the Motion, the Debtor is authorized to redact the addresses of their employees from the Creditor Matrix; *provided* that the Debtor shall file under seal with the Court an unredacted version of the Creditor Matrix and shall provide such unredacted Creditor Matrix to the Debtor's claims agent and, upon request, the United States Trustee and any official committee of unsecured creditors appointed in these chapter 11 cases,.
3. The Clerk of Court is directed to file and maintain the unredacted creditor matrix under seal and shall not make it publicly available. The unredacted creditor matrix shall not be unsealed unless and until permitted by further order of this Court.
4. The Debtor is authorized to take all actions necessary to effectuate the relief granted herein.
5. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019, at __:__ .m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019, and shall be served on: (a) proposed counsel for the Debtor, Pachulski Stang Ziehl & Jones LLP, 919 N. Market Street, 17th Floor, Wilmington, DE 19801, Attn: James E. O'Neill, Esq.; (b) counsel to any statutory committee appointed in this case; and (c) the Office of The United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware

19801. In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2019
Wilmington, Delaware

United States Bankruptcy Judge