

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

| | | |
|-----------------------------------|---|------------------------|
| In re | : | |
| | : | Chapter 11 |
| ALDRICH PUMP LLC, <i>et al.</i> , | : | |
| | : | No. 20-30608 (JCW) |
| Debtors, | : | |
| | : | (Jointly Administered) |
| | : | |
| | : | |
| ALDRICH PUMP LLC and MURRAY | : | |
| BOILER LLC, | : | |
| | : | |
| Plaintiffs, | : | Adversary Proceeding |
| | : | |
| v. | : | No. 20-03041 (JCW) |
| | : | |
| THOSE PARTIES TO ACTIONS LISTED | : | |
| ON APPENDIX A TO COMPLAINT and | : | |
| JOHN AND JANE DOES 1-1000. | : | |
| | : | |
| Defendants. | : | |

DEBTORS' MOTION TO FILE CONFIDENTIAL DOCUMENTS UNDER SEAL

Plaintiffs Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), debtors in these chapter 11 cases (collectively, the "Debtors")¹, by and through undersigned counsel, pursuant to 11 U.S.C. § 105(a), 11 U.S.C. § 107(b), Rule 9018 of the Federal Rules of Bankruptcy Procedure, Rule 6.1 of the Rules of Practice and Procedure of the United States District Court for the Western District of North Carolina and Section I(1) of the Agreed Protective Order Governing Confidential Information [Dkt. No. 345] entered on September 23, 2020 ("Protective Order"), hereby file this Motion for an Order Authorizing the Filing of Certain Confidential Documents Under Seal and/or in a redacted format (the "Motion") related to the

¹ The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.



Declaration of Brad B. Erens (the "Erens Decl.") and the Debtors' Reply in Support of Motion of the Debtors for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring that the Automatic Stay Applies to Such Actions, and (III) Granting a Temporary Restraining Order Pending a Final Hearing (the "Reply").

Background

1. Debtors seek an order permitting them to file under seal twelve documents produced in this Adversary Proceeding, portions of the excerpts of one deposition transcript, and three excerpted deposition excerpts in their entirety, which have been designated as "Confidential" pursuant to the Protective Order.

2. This Court entered the Protective Order that had been executed by the Debtors, the Non-Debtor Affiliates², and the Official Committee of Asbestos Personal Injury Plaintiffs (the "Committee") on September 23, 2020. Dkt. No. 345. The Future Claimants' Representative ("FCR") elected to become a party to the Protective Order on October 15, 2020. See Notice of Election of Future Claimants Representative to Become a Party to Modified Protective Order (Dkt. No. 395).

3. The Protective Order governs the rights and obligations of the parties to it with respect to "Confidential Information," which is defined as:

[I]nformation, documents, or things produced or provided (formally or informally) by the Disclosing Party that such Disclosing Party or a Designating Party reasonably believes in good faith contains confidential, proprietary or commercially sensitive information including, but not limited to (a) trade secrets, (b) proprietary business information, and (c) information implicating an individual's legitimate expectation of privacy, including medical information and social security numbers. This term shall include information furnished or otherwise disclosed in any manner, including, without limitation, in written form, orally or through any electronic,

² For purposes of this Reply, the "Non-Debtor Affiliates" consist of Trane Technologies Company LLC and Trane U.S. Inc.

facsimile or computer-related communication, and also shall include, without limitation, (i) those portions of deposition testimony (whether based upon oral examination or written questions), answers to interrogatories, requests for admissions, responses to requests for admission, notes, summaries, compilations, memoranda, or similar materials disclosing or discussing Confidential Information and (ii) any Oral Confidential Information.

Protective Order at 3-4.

4. In the case of depositions, Section C.2 of the Protective Order provides that:

In the case of depositions, if counsel for the Designating Party believes that a portion or all of the testimony given at a deposition constitutes Confidential Information, counsel may so state on the record and request that the entire transcript or relevant portion thereof be sealed. In addition, the Designating Party may also designate the relevant portion of the transcript or videotape of a deposition, and any exhibits thereto, as Confidential Information within 30 days of the Designating Party's receipt of the transcript from the court reporter. Such designation and notice shall be made in writing to the court reporter, with copies to all other counsel of record at the deposition and any Disclosing Party or Designating Party, in the case where the Disclosing Party and Designating Party were not in attendance at the deposition, identifying the portion of the transcript, or exhibits thereto, that constitute items designated as Confidential Information. All pages of the transcript and exhibits designated as Confidential Information shall be stamped "CONFIDENTIAL."

Protective Order at 7.

5. The confidential documents to be sealed and/or redacted are as follows:
 - Exhibits 9, 24, 27, and 28 to the Erens Decl., consisting of the Expert Reports of Debtors' Expert Charles Mullin, Non-Debtor Affiliate's Expert Laureen Ryan, and the Committee's Expert Matthew Diaz, and the Rebuttal Expert Report of Non-Debtor Affiliate's Expert Laureen Ryan (the "Expert Materials"). Debtors and Non-Debtor Affiliates' Expert Materials contain commercially sensitive information that would injure the Debtors and Non-Debtor Affiliates if filed

publically. Debtors seek to keep Mr. Diaz's Report under seal pursuant to the Protective Order, but do not take a position as to whether it is Confidential.

- Exhibit 10 to the Erens Decl., consisting of Debtors' Joint Board Meeting Minutes for May 15, May 22, May 29, and June 5 meetings (the "Board Materials"), that were produced and marked "Confidential" by the Debtors under the Protective Order. Each of these documents contains confidential and commercially sensitive business information that was provided to the Debtors' Boards of Managers.
- Exhibit 25 to the Erens Decl., consisting of *Responses And Objections* of Certain Members of the Committee (the "Sample Responses to Debtors' Interrogatories") (together with the materials described in the bullet points above, the "Confidential Documents"). The Sample Responses to Debtors' Interrogatories were provided to Debtors by Committee members but have not been filed publically. Debtors do not take a position as to whether these materials are Confidential, but include them in the Motion to Seal pursuant to the Protective Order.
- Portions of Exhibit 1 to the Erens Decl., consisting of excerpts from the following deposition transcripts, select portions of which Debtors have designated as "Confidential" under Section C.2 of the Protective Order (the "Confidential Deposition Excerpts").
 - Excerpted Transcript of the March 22, 2021 Deposition of Allan Tananbaum, 2021, discussing confidential and commercially sensitive information at 301:20-25, 302:2-25;
 - Excerpted Transcript of the April 1, 2021 Deposition of Sara Brown. This transcript was designated as "Confidential" under Section C.2 of the

Protective Order and the Non-Debtor Affiliates have yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep this transcript under seal but do not take a position as to whether it is Confidential.

- Excerpted Transcript of the April 5, 2021 Deposition of Evan Turtz. This transcript was designated as "Confidential" under Section C.2 of the Protective Order and the Non-Debtor Affiliates have yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep this transcript under seal but do not take a position as to whether it is Confidential.
- Excerpted Transcript of the March 23, 2021 Deposition of Matthew Diaz. This transcript was designated as "Confidential" under Section C.2 of the Protective Order and the Committee has yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep this transcript under seal but do not take a position as to whether it is Confidential.
- References to the Confidential Documents and Deposition Excerpts above contained in the body of the Erens Decl. and the Reply, and which have been redacted.

Argument

6. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

7. The statutory bases for the relief requested herein are 11 U.S.C. § 105(a), 11 U.S.C. § 107(b) and the Federal Rule of Bankruptcy Procedure 9018. 11 U.S.C. § 105(a) gives this Court authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." The Bankruptcy Code authorizes the Court, in appropriate

circumstances, to issue orders to protect entities from potential harm that may result from the disclosure of Confidential Information. 11 U.S.C. § 107(b). Federal Rule of Bankruptcy Procedure 9018 provides that "[o]n motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of . . . confidential . . . commercial information."

8. Certain of the documents and testimony that Debtors seek to seal involve confidential and commercially sensitive business information pertaining to settlement amounts, litigation verdicts, and other sensitive matters. This information was provided to the FCR and Committee strictly on a confidential basis under the Protective Order. The disclosure of this information could potentially cause competitive or economic harm to the Debtors. Ex. A, Allan Tananbaum Declaration in Support of Debtors' Motion to File Confidential Documents Under Seal, ¶¶ 3-4, 6.

9. Other documents and testimony that Debtors seek to seal involve materials designated as Confidential by the Non-Debtor Affiliates or the Committee. Debtors seek to file those materials under seal pursuant to the Protective Order, but do not take any position as to whether these materials are Confidential. Ex. A ¶¶ 7-9.

10. The Debtors have redacted only the portions of the excerpted deposition testimony that contain commercially sensitive information. The Debtors have considered redaction of the Expert Materials, Board Materials, and Sample Responses to Debtors' Interrogatories, however due to the pervasive nature of the confidential information contained in these documents, redaction would be impracticable.

11. As provided for in the Protective Order, the Debtors will deliver an unredacted copy of the copy of the Confidential Information to this Court.

12. After receiving the confidentiality designations for the transcripts of the depositions of Sara Brown, Evan Turtz, and Matthew Diaz pursuant to Section C.2 of the Protective Order, the Debtors will file unsealed or partially redacted versions based on those designations.

Wherefore, the Debtors respectively request that the Court enter an order, Attached hereto as Ex. B, granting the Debtors' Motion to Seal.

Dated: April 23, 2021
Charlotte, North Carolina

Respectfully submitted,

/s/ John R. Miller, Jr.

C. Richard Rayburn, Jr. (NC 6357)
John R. Miller, Jr. (NC 28689)
RAYBURN COOPER & DURHAM, P.A.
227 West Trade Street, Suite 1200
Charlotte, North Carolina 28202
Telephone: (704) 334-0891
Facsimile: (704) 377-1897
E-mail: rrayburn@rcdlaw.net
jmiller@rcdlaw.net

-and-

Brad B. Erens (IL Bar No. 6206864)
David S. Torborg (DC Bar No. 475598)
Robert W. Hamilton (OH Bar No. 0038889)
Morgan R. Hirst (IL Bar No. 6275128)
Caitlin K. Cahow (IL Bar No. 6317676)
JONES DAY
77 West Wacker
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585
E-mail: bberens@jonesday.com
dstorborg@jonesday.com
rwhamilton@jonesday.com
mhirst@jonesday.com
ccahow@jonesday.com
(Admitted *pro hac vice*)

-and-

Gregory M. Gordon (TX Bar No. 08435300)
JONES DAY
2727 N. Harwood Street
Dallas, Texas 75201
Telephone: (214) 220-3939
Facsimile: (214) 969-5100
E-mail: gmgordon@jonesday.com
(Admitted *pro hac vice*)

ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

| | | |
|---|---|------------------------|
| In re | : | |
| ALDRICH PUMP LLC, <i>et al.</i> , | : | Chapter 11 |
| Debtors, | : | No. 20-30608 (JCW) |
| | : | (Jointly Administered) |
| | : | |
| ALDRICH PUMP LLC and MURRAY BOILER LLC, | : | |
| Plaintiffs, | : | Adversary Proceeding |
| v. | : | No. 20-03041 (JCW) |
| THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000. | : | |
| Defendants. | : | |

**DECLARATION OF ALLAN TANANBAUM IN SUPPORT OF DEBTORS' MOTION
TO FILE CONFIDENTIAL DOCUMENTS UNDER SEAL**

I, Allan Tananbaum, being first duly sworn, deposes and states as follows:

1. I am the Chief Legal Officer of Aldrich Pump LLC, a North Carolina limited liability company ("Aldrich") and Murray Boiler LLC, a North Carolina limited liability company ("Murray"). Aldrich and Murray are the debtors and debtors in possession in the above-captioned chapter 11 cases (together, the "Debtors") and the plaintiffs in the above-captioned adversary proceeding. I have been the Chief Legal Officer for each of the Debtors since their formation on May 1, 2020.

2. The facts, statements, and opinions set forth in this Declaration are based on my personal knowledge and my business experience.

3. The Expert Materials were provided to all parties to the above-captioned chapter 11 cases, but have not been filed publically. The Debtors and Non-Debtor Affiliates' Expert Materials contain commercially sensitive information that would cause serious competitive injury to Debtors and Non-Debtor Affiliates if filed publically. The Debtors do not take a position on whether the Expert Report of Matthew Diaz is Confidential, but seek to file the report under seal pursuant to the Protective Order.

4. The public disclosure of the Board Materials would cause serious competitive injury to Debtors because the documents contains business information that is maintained as highly confidential by Debtors and whose public disclosure would cause serious business injury to Debtors by aiding Debtors' competitors and by adversely affecting Debtors' operations and employees. This commercially sensitive business information pertains to Debtors' experiences in the asbestos tort system, the Debtors' considerations of various strategies to resolve asbestos liability, and numerous other matters.

5. The Sample Responses to Debtors' Interrogatories were provided to Debtors by Committee members but have not been filed publically. Debtors do not take a position as to whether these materials are Confidential, but include them in the Motion to Seal pursuant to the Protective Order.

6. The public disclosure of the testimony in my March 22, 2021 deposition at 301:20-25, 302:2-25 would cause serious competitive injury to Debtors because the testimony contains business information that is maintained as highly confidential by Debtors and whose public disclosure would cause serious business injury to Debtors by aiding Debtors' competitors and by adversely affecting Debtors' operations and employees.

7. The Transcript of the April 1, 2021 deposition of Sara Brown has been designated

as "Confidential" under Section C.2 of the Protective Order and the Non-Debtors have yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep excerpts of this transcript under seal but do not take a position as to whether it is Confidential.

8. The Transcript of the April 5, 2021 deposition of Evan Turtz has been designated as "Confidential" under Section C.2 of the Protective Order and the Non-Debtors have yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep excerpts of this transcript under seal but do not take a position as to whether it is Confidential.

9. The Transcript of the March 23, 2021 deposition of Matthew Diaz has been designated as "Confidential" under Section C.2 of the Protective Order and the Committee has yet to de-designate any portion of the transcript. Therefore, Debtors seek to keep excerpts of this transcript under seal but do not take a position as to whether it is Confidential.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

EXECUTED on this 23rd day of April, 2021.

/s/Allan Tananbaum
Allan Tananbaum

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

| | | |
|--|---|------------------------|
| In re | : | |
| | : | Chapter 11 |
| ALDRICH PUMP LLC, <i>et al.</i> , ¹ | : | |
| | : | No. 20-30608 (JCW) |
| Debtors, | : | |
| | : | (Jointly Administered) |
| | : | |
| | : | |
| ALDRICH PUMP LLC and MURRAY | : | |
| BOILER LLC, | : | |
| | : | |
| Plaintiffs, | : | Adversary Proceeding |
| | : | |
| v. | : | No. 20-03041 (JCW) |
| | : | |
| THOSE PARTIES TO ACTIONS LISTED | : | |
| ON APPENDIX A TO COMPLAINT and | : | |
| JOHN AND JANE DOES 1-1000. | : | |
| | : | |
| Defendants. | : | |

¹ The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

**ORDER AUTHORIZING THE FILING UNDER SEAL OF
CERTAIN CONFIDENTIAL DOCUMENTS AND EXCERPTED TESTIMONY
PROVIDED PURSUANT TO THE AGREED PROTECTIVE ORDER**

This matter coming before the Court on the *Motion of the Debtors to File Confidential Documents Under Seal* (the "Motion")², filed by Debtors, the Court having reviewed the Motion and the Declaration of Allan Tananbaum attached thereto, and having considered the statements and evidence adduced with respect to the motion; and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, and (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and after due deliberation the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, and the parties in interest; and good and sufficient cause having been shown;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. In the above captioned bankruptcy and related adversarial proceedings, the parties are authorized to file the Confidential Documents and Deposition Excerpts under seal. Any party making a public filing in these proceedings attaching or referring to the Confidential Documents or Deposition Excerpts shall redact the Confidential Documents, Deposition Excerpts, and references to same in their public filing, and indicate that such information has been filed under seal pursuant to this Order. If the Confidential Documents or Deposition Excerpts are to be used in a Court hearing, the party intending to use such materials shall provide reasonable advance notice so that the courtroom can be sealed or similar protective measures can be implemented.

² Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

3. Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this order.

4. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

| | | |
|---|---|------------------------|
| In re | : | |
| | : | Chapter 11 |
| ALDRICH PUMP LLC, <i>et al.</i> , | : | |
| Debtors, | : | No. 20-30608 (JCW) |
| | : | (Jointly Administered) |
| | : | |
| ALDRICH PUMP LLC and MURRAY BOILER LLC, | : | |
| Plaintiffs, | : | Adversary Proceeding |
| v. | : | No. 20-03041 (JCW) |
| THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000. | : | |
| Defendants. | : | |
| | : | |

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that Aldrich Pump LLC., et al., Debtors in the above-captioned cases, have filed the Debtors’ Motion to File Confidential Documents under Seal (the “Motion”).

If a copy of the Motion is not included with this Notice, a copy may be viewed at the Court’s website, www.ncwb.uscourts.gov under Debtor Aldrich Pump LLC’s name and case number, you may obtain a copy of the Motion from the Debtors’ claims and noticing agent at www.kcellc.net/aldrich, or you may request in writing a copy from the undersigned counsel to the Debtors.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THESE BANKRUPTCY CASES. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO GRANT THE RELIEF REQUESTED IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN ON OR BEFORE FRIDAY, MAY 7, 2021 YOU MUST:

(1) A. File with the Bankruptcy Court a written objection at:

Clerk, United States Bankruptcy Court
401 W. Trade Street
Charlotte, North Carolina 28202

B. If you have your attorney file a written objection then the objection should be filed with the Bankruptcy Court by electronic means through the Court's website, www.ncwb.uscourts.gov under the jointly administered name and case number shown above.

(2) Serve the objection pursuant to the procedures set forth in the Order Establishing Certain Notice, Case Management, and Administrative Procedures (Docket No. 123).

(3) Attend the hearing scheduled for May 27, 2021, at 9:30 a.m. EDT or as soon thereafter as the matter can be heard in the Bankruptcy Courtroom 1-4, 401 West Trade Street, Charlotte, North Carolina. You should attend this hearing if you file an objection.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an Order granting the relief requested. No further notice of that hearing will be given.

This the 23rd day of April, 2021.

RAYBURN COOPER & DURHAM, P.A.

/s/ John R. Miller, Jr.
John R. Miller, Jr.
N.C. State Bar No. 28689
1200 Carillon, 227 W. Trade Street
Charlotte, North Carolina 28202
Telephone: 704-334-0891

ATTORNEYS FOR DEBTORS