

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

_____)
In re:) Chapter 11
)
IEH AUTO PARTS HOLDING LLC, *et al.*,¹) Case No. 23-90054 (CML)
)
Wind-Down Debtors.) (Jointly Administered)
_____)

**WIND-DOWN DEBTORS’ MOTION FOR ENTRY OF AN ORDER
AUTHORIZING THE WIND-DOWN DEBTORS TO SEAL MCCRARY STIPULATION**

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this application was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this application was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

The above-captioned debtors (collectively, the “Debtors” before the Effective Date and “Wind-Down Debtors” after the Effective Date) state as follows in support of this motion (this “Motion”):²

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² On January 31, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Capitalized terms used but not otherwise defined in this Motion have the meanings ascribed to them in the *Declaration of Michael Neyrey, Chief Executive Officer of IEH Auto Parts Holding LLC, in Support of the Debtors’ Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”) or the Signature Motion, as applicable.



Relief Requested

1. The Wind-Down Debtors seek entry of an order, substantially in the form attached hereto (the “Order”), authorizing the Wind-Down Debtors to file under seal that certain stipulation with claimant Edwin McCrary (the “Claimant”), which is filed contemporaneously herewith (the “Stipulation”), due to the confidential and commercially sensitive information contained therein.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). The Wind-Down Debtors confirm their consent to the entry of a final order by the Court. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105(a) and 107(b) of title 11 of the United States Code (the “Bankruptcy Code”), rules 9018 and 9037-1 Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 9013-1 of the Local Bankruptcy Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

Basis for Relief

4. Section 105(a) of the Bankruptcy Code codifies the inherent equitable powers of the bankruptcy court and empowers the bankruptcy court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Section 107(b) of the Bankruptcy Code provides bankruptcy courts with authority to issue orders that will protect entities from potential harm that may result from the disclosure of certain confidential information. 11 U.S.C. § 107(b). Specifically, section 107(b) provides, in relevant part:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information. . .

11 U.S.C. § 107(b)(1).

5. Bankruptcy Rule 9018 defines the procedures by which a party may move for relief under section 107(b) of the Bankruptcy Code, providing 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 a trade secret or other confidential research, development, or commercial information.” Fed. R. Bankr. P. 9018. Further, Bankruptcy Local Rule 9037-1 provides, in relevant part, that when it may be practicable to redact confidential information from a document, “(i) a redacted document should be filed, not under seal; and (ii) the unredacted document should simultaneously be filed, under seal.”

6. If the material sought to be protected satisfies one of the categories identified in section 107(b) of the Bankruptcy Code, “the court is *required* to protect a requesting party and has no discretion to deny the application.” *In re Gen. Homes Corp.*, 181 B.R. 898, 903 (Bankr. S.D. Tex. 1995) (“The court has authority to seal court records, in order to protect trade secrets or confidential research, development, or confidential information, or to protect a person with regard to a scandalous or defamatory matter.”); *In re Kaiser Aluminum Corp.*, 327 B.R. 554, 560 (D. Del. 2005) (“Courts have supervisory power over their records and files and may deny access to those records and files to prevent them from being used for an improper purpose.”). The “authority goes not just to the protection of confidential documents, but to other confidentiality restrictions that are warranted in the interests of justice.” *See In re Glob. Crossing Ltd.*, 295 B.R. 720, 724 (Bankr. S.D. N.Y. 2003).

7. The Stipulation contains information protected under section 107(b) of the Bankruptcy Code due to the confidential and commercially sensitive nature to all related parties. Several claimants have asserted litigation claims against the Debtors and may seek to have the injunction included in the Wind-Down Debtors' confirmed plan of reorganization modified to permit such claimants to seek recovery from the Wind-Down Debtors' insurance policies. Each of those claims presents different facts, circumstances, and legal dynamics and may result in a negative financial impact to the estate. The Stipulation contains certain confidential commercial information (the "Confidential Information") relating to the Wind-Down Debtors' discussions with the Claimant which, if made public, other claimants may seek to use in settlement negotiations with the Wind-Down Debtors notwithstanding important differences in the factual and/or legal circumstances between their claim and the claims brought by Claimant. If the Confidential Information were to be made public via PACER, such disclosure would be to the detriment of the Wind-Down Debtors, their estates, and their creditors.

8. The Wind-Down Debtors believe that the Confidential Information should be subject to the protections of section 107(b) of the Bankruptcy Code and request the Court authorize the Wind-Down Debtors to file the Stipulation under seal.

Notice

9. The Wind-Down Debtors are giving notice of this Motion to the United States Trustee, all parties receiving notice through CM/ECF, and any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, no other or further notice need be given.

The Wind-Down Debtors respectfully request that the Court enter the Order granting the relief requested in this Motion and such other and further relief as may be just and proper.

Houston, Texas
Dated: January 4, 2024

/s/ Veronica A. Polnick

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Counsel to the Wind-Down Debtors

Certificate of Service

I certify that on January 4, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Veronica A. Polnick

Veronica A. Polnick

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	
)	Chapter 11
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , ¹)	Case No. 23-90054 (CML)
)	
Debtors.)	(Jointly Administered)
)	

**ORDER AUTHORIZING THE
WIND-DOWN DEBTORS TO SEAL MCCRARY STIPULATION**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors” before the Effective Date and “Wind-Down Debtors” after the Effective Date) for entry of an order (this “Order”): authorizing the Wind-Down Debtors to file under seal the Stipulation; all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Wind-Down Debtors, their creditors, and other parties in interest; and this Court having found that

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² Capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to such terms in the Motion.

the Wind-Down Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is ORDERED THAT:

1. The Wind-Down Debtors are authorized to file the Stipulation under seal pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9037-1.

2. The Stipulation shall remain confidential, and shall not be made available to anyone, other than as provided in this Order or further order from the Court.

3. The Wind-Down Debtors are authorized to cause an unsealed copy of the Stipulation to be served on and/or made available, on a confidential basis, to (a) the Court, (b) the U.S. Trustee, (c) GUC Trustee; (d) any insurer that issued any of the insurance policies under which coverage is sought in connection with the Claimant's claim; and (e) any other party as may be ordered by the Court.

4. Any party who receives the Stipulation in accordance with this Order shall not disclose or otherwise disseminate this information to any other person or entity, including in response to a request under the Freedom of Information Act without the prior written consent of the Wind-Down Debtors.

5. The requirements set forth in Bankruptcy Local Rule 9013-1 and Bankruptcy Local Rule 9037-1 are satisfied by the contents of the Motion.

6. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion.

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Wind-Down Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

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

Dated: _____, 2024

CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE