

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

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In re	:	Chapter 11
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ALDRICH PUMP LLC, <i>et al.</i> , ¹	:	Case No. 20-30608
	:	
Debtors.	:	
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ALDRICH PUMP LLC, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Adv. Pro. No. 20-03041
	:	
THOSE PARTIES LISTED ON APPENDIX	:	
A TO COMPLAINT and JOHN AND JANE	:	
DOES 1-1000,	:	
	:	
Defendants.	:	
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MOTION TO FILE CONFIDENTIAL DOCUMENTS UNDER SEAL

The Official Committee of Asbestos Personal Injury Claimants (the “**Committee**” or the “**Movant**”), 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 (Case No. 20-30608; ECF No. 345) entered on September 23, 2020 (“**Protective Order**”), hereby files this Motion for an Order authorizing the filing of certain confidential documents under seal and/or in

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.



a redacted format related to the *Supplemental Memorandum of the Official Committee of Asbestos Personal Injury Claimants in Opposition to Debtors' Motion for Preliminary Injunction or Declaratory Relief* [Adv. Dkt. No. 179] (the “**Opposition Supplemental Brief**”). The confidential documents to be sealed and/or redacted are as follows:

- Excerpts from the following deposition transcripts, which are confidential under Section C.2. of the Protective Order as deposition transcripts which remain confidential until 30 days following receipt of the transcript by the Designating Party (as defined in the Protective Order), or are otherwise confidential² (“**Confidential Deposition Excerpts**”):

- Exhibit A Deposition of Evan Turtz, April 5, 2021
- Exhibit B Debtors’ 30(b)(6) Deposition (Allan Tananbaum), April 12, 2021
- Exhibit C Deposition of Sara Brown, April 1, 2021
- Exhibit D Non-Debtor Affiliates 30(b)(6) Deposition (Chris Kuehn), April 9, 2021
- Exhibit E DBMP 30(b)(6) Deposition (Michael Starczewski), December 15, 2020
- Exhibit F DBMP 30(b)(6) Deposition (Joseph Bondi), December 22, 2020

- The following Exhibits to deposition transcripts, which are confidential under Section C.2. of the Protective Order until 30 days following receipt of the

² Two of the Confidential Excerpts attached as Exhibits E and F are from depositions taken in the DBMP bankruptcy case. While these deposition excerpts may not constitute “Confidential Information” in the DBMP case, the Committee believes that the depositions may impact Confidential Information in this proceeding, and therefore filed them under seal.

deposition transcript by the Designating Party (as defined in the Protective Order), or have been designated as Confidential (the “**Confidential Deposition Exhibits**”):

- Exhibit G Turtz Deposition Exhibit 212
 - Exhibit H Non-Debtor Affiliates 30(b)(6) Deposition Exhibit 222 (Chris Kuehn)
 - Exhibit I Non-Debtor Affiliates 30(b)(6) Deposition Exhibit 216 (Chris Kuehn)
 - Exhibit J Non-Debtor Affiliates 30(b)(6) Deposition Exhibit 218 (Chris Kuehn)
 - Exhibit M Debtors’ 30(b)(6) Deposition Exhibit 228 (Allan Tananbaum)
- References to the Confidential Deposition Excerpts and Confidential Deposition Exhibits contained in the body of the Opposition Supplemental Brief are redacted.

In support, the Movant respectfully states as follows:

1. 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).³
2. The statutory bases for the relief requested herein are 11 U.S.C. § 105(a), 11 U.S.C. § 107(b) and 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

³ The Committee reserves all rights to object to the Court’s jurisdiction with respect to granting a preliminary injunction protecting non-debtors, and nothing in this request for relief is intended to waive such an argument or act as the Committee’s consent to the appropriateness of jurisdiction here.

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.”

3. The Protective Order was entered on or about September 23, 2020.⁴ The Protective Order governs the Parties’ rights and obligations with respect to “Confidential Information,” defined in the order 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, 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 [Case No. 20-30608, ECF No. 345, at 3-4].

4. Section I (Disclosure of Covered Information in the Bankruptcy Proceedings), subparagraph 1 (Protection of Covered Information) of the Protective Order provides that:

[T]he Party seeking to use Covered Information in the Court may file a Motion to Seal pursuant to Rule 9037-1 of the Rules of Practice and Procedure of the United States Bankruptcy Court for the Western District of North Carolina and Local Civil Rule 6.1 of the Rules of Practice and Procedure of the United States District Court for the Western District of North Carolina, as appropriate; provided that (a) pending a ruling on such Motion to Seal or other agreement or Court order that permits the public filing of the materials at issue, the Parties shall maintain the confidentiality of the Covered Information; (b) where necessary, the moving party may file a

⁴ On October 15, 2020, the Future Claimants’ Representative elected to become a party to the Protective Order. *See Notice of Election of Future Claimants Representative to Become a Party to Modified Protective Order* [Case No. 20-30608, Dkt. No. 395].

redacted copy of its Motion to Seal, brief or other relevant materials, eliminating the Covered Information; and (c) the moving party may provide an unredacted copy of these materials to the Court under seal to assist in its consideration of the Motion to Seal.

Protective Order [Case No. 20-30608, Dkt. No. 345, at 15].

5. Under Section C.2. of the Protective Order, deposition transcripts are deemed “Confidential” for a period of 30 days following receipt of a transcript by the Designating Party. Protective Order [Case No. 20-30608, Dkt. No. 345, at 7]. The Confidential Deposition Excerpts and Confidential Deposition Exhibits are “Confidential Information” since the 30-day period following receipt of the transcripts by the Designating Party has not expired in relation to such depositions (collectively, the Confidential Deposition Excerpts and the Confidential Deposition Exhibits are referred to as “**Confidential Information**”). The parties have not reached an agreement that avoids the need to file the Confidential Information under seal. Therefore, the Movant is bringing this motion to comply with the terms of the Protective Order and the designation of this material as Confidential thereunder.

6. Because it is necessary that the Movant include in its filings references to deposition transcripts and exhibits to such transcripts that are “Confidential Information” under the Protective Order, the Movant filed the Opposition Supplemental Brief with redactions in the body of the brief of the Confidential Information, and sealed copies of Exhibits A through J and Exhibit M to the Opposition Supplemental Brief.

7. The Committee will work with the Debtors to determine which, if any, Confidential Information may be unsealed. By filing this motion, the Committee is not taking a position as to whether the materials were appropriately designated as “Confidential.”

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

WHEREFORE, the Movant respectfully requests that the Court enter an order substantially in the form attached hereto as **Exhibit A:** (a) authorizing the filing of the Confidential Information under seal; (b) providing that any portion of a hearing requiring the disclosure of the confidential information be conducted *in camera*, and (c) granting such other and further relief to the Committee as the Court may deem proper.

Dated: April 19, 2021

HAMILTON STEPHENS STEELE
+ MARTIN, PLLC

/s/ Robert A. Cox, Jr.

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Exhibit A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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

**ORDER GRANTING MOTION OF THE OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS
TO FILE CONFIDENTIAL DOCUMENTS UNDER SEAL**

Upon consideration of the Motion of the Official Committee of Asbestos Personal Injury Claimants (the “**Committee**”) to file confidential documents under seal (the “**Motion**”); and the

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Committee having demonstrated upon the record herein good cause for the relief requested in the Motion; and after due deliberation

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Confidential Information (as defined in the Motion) contained in and/or attached to the *Supplemental Memorandum of the Official Committee of Asbestos Personal Injury Claimants in Opposition to Debtors' Motion for Preliminary Injunction or Declaratory Relief* [Adv. Dkt. No. 179] (the "PI Opposition Supplemental Brief") are to remain filed on the public docket in a redacted format.
3. The references in the PI Opposition Supplemental Brief to the Confidential Information are to be redacted from the version of the PI Opposition Supplemental Brief filed on the public docket.
4. This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

This order has been signed electronically. The Judge's signature and Court's seal appear at the top of this Order.	United States Bankruptcy Court Western District of North Carolina
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