

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
CD LIQUIDATION CO., LLC f/k/a)	
CYNERGY DATA, LLC, <i>et al.</i> ,)	Case No. 09-13038 (KG)
)	
Debtors.)	Jointly Administered
)	
)	

**MOTION OF TRIBUL LLC, TRIBUL MERCHANT SERVICES, LLC, TRIBUL CASH, LLC, AND SECOND SOURCE FUNDING LLC FOR AN ORDER UNDER 11 U.S.C. § 102(1) SHORTENING NOTICE RELATING TO THE MOTION OF TRIBUL LLC, TRIBUL MERCHANT SERVICES, LLC, TRIBUL CASH, LLC, AND SECOND SOURCE FUNDING LLC FOR ENTRY OF AN ORDER AUTHORIZING EXHIBITS B, D, E, AND F TO THE NOTICE OF FILING PROPOSED FINAL PRETRIAL ORDER
TO BE FILED UNDER SEAL**

Tribul LLC, Tribul Merchant Services, LLC Tribul Cash, LLC, and Second Source Funding, LLC (together, the “Tribul Parties”) hereby move (the “Motion”) for entry of an order, pursuant to section 102(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) (a) shortening notice to allow the *Motion of Tribul LLC, Tribul Merchant Services, LLC, Tribul Cash, LLC, and Second Source Funding LLC for Entry of an Order Authorizing Exhibits B, D, E, and F to the Notice of Filing Proposed Final Pretrial Order to be Filed Under Seal* (the “Seal Motion”),¹ filed contemporaneously herewith, to be considered on an expedited basis; (b) scheduling the hearing on the Seal Motion for the pretrial conference currently scheduled for January 27, 2012, at 8:00 a.m. (ET) (the “Hearing”); and (c) authorizing parties in interest to raise objections, if any, to the

¹ Capitalized terms not defined herein shall have the meanings ascribed to them in the Seal Motion.



Seal Motion at or before the Hearing. In further support of this Motion, the Tribul Parties respectfully represent as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for the relief requested herein is section 102(1) of the Bankruptcy Code, as supplemented by Bankruptcy Rules 9006 and Local Rule 9006-1(e).

BACKGROUND

3. On October 11, 2011, the Court entered an *Order Approving Confidentiality Stipulation* (the “Confidentiality Order”) (D.I. 1421) which approved a Confidentiality Stipulation (the “Stipulation”) entered into on October 7, 2011, by and between the Tribul Parties and Charles M. Moore, in his capacity as Trustee of the CD Liquidation Trust and successor-in-interest to the substantively consolidated bankruptcy estates of the Debtors (the “Parties”). Pursuant to the Stipulation, the Parties agreed to “retain in strict confidence all Confidential Information.”² *Id.* Moreover, the Stipulation provides that “any Confidential Information designated as ‘Highly Confidential – Attorneys’ Eyes Only’ shall be submitted to the Clerk of Court in a sealed envelope in accordance with Rule 9018-1(c) of the Local Rules.”³ *Id.*

² The Stipulation defines “Confidential Information” as “all documents or information produced by either Party and any information or data contained in, on or derived therefrom including, without limitation, any corporate records, contracts, information, data, financial statements, tax returns, records of financial condition, business information, customer information, results, plans, and/or projections, pricing information, operating information, employee or employment records, payment records, invoices, purchase orders, payroll, accounts or obligations, loans, debts and expenses.” *See* Stipulation at A.

³ Pursuant to the Stipulation, Confidential Information will be designated as “Highly Confidential – Attorneys’ Eyes Only” “if the designating party believes in good faith that such Confidential Information

4. Contemporaneous with the filing of this Motion, the Tribul Parties are filing the *Notice of Filing Proposed Final Pretrial Order* (the “Pretrial Order”). Due, however, to the confidential proprietary business or technical information of the Tribul Parties and the debtors in the above-captioned cases (the “Debtors”) contained in Exhibits B, D, E, and F to the Pretrial Order (the “Confidential Exhibits”), the Tribul Parties filed the Seal Motion seeking authority, to the extent necessary, to file the Confidential Exhibits under seal.

5. Trial in this contested matter is scheduled for February 1st and 2nd, 2012.

RELIEF REQUESTED

6. By this Motion, the Tribul Parties seek entry of an order, substantially in the form of **Exhibit A** attached hereto (a) shortening notice to allow the Seal Motion to be considered on an expedited basis; (b) scheduling the hearing on the Seal Motion for the pretrial Hearing currently scheduled for January 27, 2012, at 8:00 a.m. (ET); and (c) authorizing parties in interest to raise objections, if any, to the Seal Motion at or before the Hearing.

BASIS FOR RELIEF

7. Local Rule 9006-1(c)(i) provides that “all motion papers shall be filed and served...at least fourteen (14) days (and an additional three (3) days if service is by mail) prior to the hearing date.” Del. Bankr. L.R. 9006-1(c)(i).

8. Under Bankruptcy Rule 9006, however, the Court, “for cause shown,” may order time periods set by the Bankruptcy Rules to be reduced. Fed. R. Bankr. P. 9006.

comprises confidential proprietary business or technical information that might be of value to a competitor, customer or potential customer that must be protected from disclosure.” *See* Stipulation at ¶ 2.

Although the Stipulation permits “Highly Confidential” information to be submitted under seal to the Clerk of the Court without the need to file a motion to seal, Stipulation at ¶ 5, the Tribul Parties are filing this Motion out of an abundance of caution as certain of the material contained in the exhibits, although confidential, may not qualify as “Highly Confidential” under the Stipulation.

9. Additionally, Local Rule 9006-1(e) provides for shortened notice “by order of the Court, on written motion (served on all interested parties) specifying the exigencies justifying shortened notice.” Del. Bankr. L.R. 9006-1(e).

10. Local Rule 9018-1 provides that “[a]ny party who seeks to file documents under seal must file a motion to that effect.” Del. Bankr. R. 9018-1. Local Rule 9018-1 further provides that a copy of the sealed documents must be delivered directly to the Judge’s chambers by 12:00 pm. (ET) two (2) days prior to the hearing on the motion to file under seal.

11. To allow the Court to consider the merits of the Pretrial Order, including the Confidential Exhibits before trial in this matter, the Seal Motion must be considered at the Hearing. Moreover, to the extent that the Stipulation contemplates the filing of material contained in the Confidential Exhibits under seal without need for a motion to seal, the Tribul Parties submit that granting this Motion will not prejudice any party in interest.

12. Accordingly, the Tribul Parties believe that shortening notice is justified in these circumstances.

NOTICE

13. Notice of this Motion will be served upon the Trustee and the Office of the United States Trustee for the District of Delaware. The Tribul Parties respectfully submit that no other or further notice is necessary under the circumstances.

NO PRIOR REQUEST

14. No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Tribul Parties respectfully request that this Court (i) grant this Motion and the relief requested herein; (ii) enter the proposed order attached hereto as **Exhibit A**; and (iii) grant such other and further relief as it deems just and proper.

Date: January 26, 2012
Wilmington, Delaware

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EXHIBIT A

[Proposed Order]

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
CD LIQUIDATION CO., LLC f/k/a)	
CYNERGY DATA, LLC, <i>et al.</i> ,)	Case No. 09-13038 (KG)
)	
Debtors.)	Jointly Administered
)	
_____)	Re: D.I. _____

**ORDER UNDER 11 U.S.C. § 102(1) SHORTENING NOTICE RELATING TO THE
MOTION OF TRIBUL LLC, TRIBUL MERCHANT SERVICES, LLC, TRIBUL CASH,
LLC, AND SECOND SOURCE FUNDING LLC FOR ENTRY OF AN ORDER
AUTHORIZING EXHIBITS B, D, E, AND F TO THE NOTICE OF FILING PROPOSED
FINAL PRETRIAL ORDER TO BE FILED UNDER SEAL**

Upon consideration of the motion (the “Motion”)¹ of Tribul LLC, Tribul Merchant Services, LLC Tribul Cash, LLC, and Second Source Funding, LLC (together, the “Tribul Parties”), for entry of an Order pursuant to section 102(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9006-1(e) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) (a) shortening notice to allow the *Motion of Tribul LLC, Tribul Merchant Services, LLC, Tribul Cash, LLC, and Second Source Funding LLC for Entry of an Order Authorizing Exhibits B, D, E, and F to the Notice of Filing Proposed Final Pretrial Order to be Filed Under Seal* (the “Seal Motion”), filed contemporaneously herewith, to be considered on an expedited basis; (b) setting January 27, 2012, at 8:00 a.m. (ET) as the deadline to file objections to the Seal Motion (the “Objection Deadline”); and (c) scheduling the hearing on the Seal Motion for the for the pretrial hearing currently scheduled for January 27, 2012, at 8:00 a.m. (ET) (the “Hearing”); and

¹ Capitalized terms used but undefined herein shall have the meanings ascribed to them in the Motion.

notice of the Motion having been given that is due and adequate under the circumstances; and it appearing that no further notice is required; and sufficient cause appearing therefore;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Seal Motion shall be considered at the pretrial hearing scheduled for **January 27, 2012, at 8:00 a.m. (ET)**.
3. Objections, if any, to the Seal Motion may be raised at or before the Hearing.
4. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____, 2012
Wilmington, Delaware

THE HONORABLE KEVIN GROSS
CHIEF UNITED STATES BANKRUPTCY JUDGE