

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

)		
In re:	)	Chapter 11	
)		
KDC AGRIBUSINESS LLC, <i>et al.</i>,	)	Case No. 23-10786 (CTG)	
)		
Debtors. ¹	)	(Jointly Administered)	
)		
	)	Obj. Deadline: July 10, 2023 at 4:00 p.m. (ET)	
	)	Hearing Date: July 20, 2023 at 1:00 p.m. (ET)	
)		

**MOTION OF DEBTORS FOR ENTRY OF AN ORDER (I) AUTHORIZING
THE DEBTORS TO REDACT CERTAIN PERSONAL IDENTIFICATION
INFORMATION AND (II) GRANTING RELATED RELIEF**

KDC Agribusiness LLC (“**KDC Ag.**”) and certain of its affiliates that are debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) hereby file this motion (this “**Motion**”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), granting the relief requested below. In support of this Motion, the Debtors rely upon and incorporate by reference the *Declaration of David Buffa in Support of Debtors’ Petitions and First Day Motions* [Docket No. 22] (the “**First Day Declaration**”)². In further support of the Motion, the Debtors respectfully represent as follows:

¹ The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: KDC Agribusiness LLC (2280), Do Good Chicken LLC (1523), Do Good Foods Facility Management LLC (3974), Do Good Foods Fort Wayne LLC (6909), Do Good Foods LLC (9976), Do Good Foods Managed Services LLC (4214), Do Good Foods Selma LLC (3776) and KDC Agribusiness Fairless Hills LLC (8680) (“**Fairless Hills**”). The debtors’ mailing address, other than Fairless Hills, is 1545 US Highway 206, Suite 100, Bedminster, New Jersey 07921. The mailing address of Fairless Hills is 250 Canal Road, Fairless Hills, Pennsylvania 19030.

² Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration.



JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion 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. Venue of the Chapter 11 Cases and related proceedings is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2) and, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent 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 consistent with Article III of the United States Constitution.

BACKGROUND

3. On June 16, 2023 (the “**Petition Date**”), the Debtors filed voluntary petitions in this Court commencing the Chapter 11 Cases for relief under the Bankruptcy Code. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No creditors’ committee has been appointed by the Office of the United States Trustee for the District of Delaware (the “**U.S. Trustee**”), nor has a trustee or examiner been appointed in the Chapter 11 Cases.

4. Additional factual background and information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the commencement of the Chapter 11 Cases, are set forth in detail in the First Day Declaration.

RELIEF REQUESTED

5. By this Motion, the Debtors request entry of the Proposed Order, pursuant to section 107(c) of the Bankruptcy Code and Rule 9018-1 of the Local Rules for authority to

redact in their creditor matrix and other documents filed in the Chapter 11 Cases certain personal identification information of individual creditors and interest holders (the “**Personal Identification Information**”), including the home addresses of individual creditors and interest holders.

BASIS FOR RELIEF

6. The Personal Identification Information is the kind protected by section 107(c), as personal addresses are a “means of identification” contemplated by Section 1028(d) of Title 18. Section 107(c)(1) of the Bankruptcy Code provides that:

The bankruptcy 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 or other unlawful injury** to the individual or the individual’s property:

(A) **Any** means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

(B) **Other information** contained in a paper described in subparagraph (A).

11 U.S.C. § 107(c)(1)(A)–(B) (emphasis added). Thus, if a debtor can show that disclosure of any “means of identification,” or some “other information,” creates “undue risk of identity theft” or “other unlawful injury,” then courts may intervene to curtail disclosure of that information. *Id.*

7. Here, the Debtors submit that the personal mailing addresses of their individual creditors fit squarely within section 1028(d)(7)(A) and that disclosure of the personal addresses of such individual creditors and interest holders (i) would create an undue risk of identity theft as contemplated by section 107(c) of the Bankruptcy Code and (ii) would potentially cause other

types of unlawful injury to these individuals, including potential future harassment from the Debtors' creditors or abusive former intimate partners.

8. Section 1028(d)(7)(A) defines "means of identification" as:

any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, **including** any—

(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number . . .

18 U.S.C. § 1028(d)(7)(A) (emphasis added). Although personal addresses are not specifically enumerated in this definition, this list is *inclusive*, rather than exclusive, and should not be read as an exhaustive list of "means of identification." Accordingly, the fact that personal addresses are not listed in section 1028(d)(7)(A) does not prohibit their redaction in bankruptcy court documents pursuant to section 107(c) of the Bankruptcy Code. Indeed, had Congress intended to exclude personal mailing addresses from this list, it would have done so. As Judge Sontchi suggested in *In re Promise Healthcare Grp., LLC*, Congress has already acted, as "they've provided an ability for the Court to protect people when necessary" via section 107(c)(1) of the Bankruptcy Code. Hr'g Tr. 18:18–19:6, *In re Promise Healthcare Grp., LLC*, No. 18-12491 (CSS) (Bankr. D. Del. Dec. 4, 2018) [Docket No. 228] (noting that "to the extent Congress hasn't acted specifically to deal with this, I think it should" but that Congress has already acted "because there's a mechanism for protecting this information").

9. Moreover, as noted above, section 1028(d)(7)(A) contemplates as a "means of identification" *any* "name or number . . . used alone or in conjunction with any other information" to identify a specific individual. 18 U.S.C. § 1028(d)(7). A personal address is precisely that: a combination of names and numbers used to identify a specific individual.

Therefore, although not specifically enumerated, a personal address fits squarely within the types of “means of identification” set forth by section 1028(d)(7)(A).

10. Courts in this district agree that section 1028(d)(7) is not exhaustive and that personal mailing addresses *are* a means of identification. Indeed, Judge Owens overruled an objection by the U.S. Trustee to a similar sealing motion, holding that “the combination of the names and addresses is a means of identification under 28 U.S.C. 1028(d)(7)(a)” and that “[t]he enumerating list in [1028(d)](7)(a) is not exclusive.” Hr’g Tr. 28:10–13, *In re Quorum Health Corp.*, No. 20-10766 (KBO) (Bankr. D. Del. May 6, 2020) [Docket No. 296]; *see also* Hr’g Tr. 24:15–20, *In re Clover Techs. Grp., LLC*, No. 19-12680 (KBO) (Bankr. D. Del. Jan. 22, 2020) [Docket No. 146] (“As I have held before[,] I do find that names and/or addresses are a means of identification. The combination of a name and address to me is a means of identification under . . . 28 U.S.C. [§] 1028(d)(7).”); Hr’g Tr. 37:25–38:4, *In re THG Holdings, LLC*, No. 19-11689 (JTD) (Bankr. D. Del. Aug. 22, 2019) [Docket No. 180] (“And in terms of 1028(d) not including address[es], I agree. I think that’s an inclusive list. It wouldn’t seem to make much sense that I could order the names not to be disclosed, but the addresses had to be; that wouldn’t make any sense to me.”); Hr’g Tr. 17:15–17, *In re L.K. Bennett U.S.A., Inc.*, No. 19-10760 (KG) (Bankr. D. Del. Apr. 9, 2019) [Docket No. 58] (“[I] do think that the list of matters to be considered personally identifiable is not exclusive”); Hr’g Tr. 47:20–22, *In re Hexion Holdings, LLC*, No. 19-10684 (KG) (Bankr. D. Del. June 24, 2019) [Docket No. 922] (noting that section 1028(d) specifically mentions a driver’s license, which lists the person’s home address, concluding that “[it] strikes me that section 107(c) does indeed protect this type of information”).

11. Additionally, courts in this district have recognized that permitting debtors to redact the personally identifiable information, including home addresses, of individual creditors and interest holders significantly reduces the risk that such individuals will become victims of identity theft and/or unlawful injury. *See, e.g.*, Hr’g Tr. 29:13–14, 29:19–20, *In re Quorum Health Corp.*, No. 20-10766 (KBO) (Bankr. D. Del. May 6, 2020) [Docket No. 296] (overruling the U.S. Trustee’s objection to similar redaction relief, noting that the “association [of address information] with an employee makes the risk of identity theft even worse” and that “[t]he court can completely avoid contributing to this existing risk by redacting the addresses”); Hr’g Tr. at 24:21–25:10, *In re Clover Techs. Grp., LLC*, Case No. 19-12680 (KBO) (Bankr. D. Del. Jan. 22, 2020) [Docket No. 146] (overruling the U.S. Trustee’s objection to similar redaction relief, noting that redaction of home addresses of individuals “is common sense. I don’t need evidence that there is, at best, a risk of identity theft and worse a risk of personal injury from listing someone’s name and address on the internet by way of the court’s electronic case filing system and, of course, the claims agent’s website. . . . The court can completely avoid contributing to the risk by redacting the addresses”); Hr’g Tr. at 60:22–25, *In re Forever 21, Inc.*, Case No. 19-12122 (KG) (Bankr. D. Del. Dec. 19, 2019) [Docket No. 605] (overruling the U.S. Trustee’s objection to similar redaction relief, noting that “[w]e live in a new age in which the theft of personal identification is a real risk, as is injury to persons who, for personal reasons, seek to have their addresses withheld”).

12. Accordingly, the Debtors respectfully submit that it is appropriate to authorize the Debtors to redact from any paper filed or to be filed with the Court in the Chapter 11 Cases the Personal Identification Information of individual creditors and interest holders, including the Debtors’ current and former employees, because such information could be used to, among other

things, perpetrate identity theft or locate survivors of domestic violence or stalking. Indeed, the risk to individuals themselves is not merely speculative. In at least one recent chapter 11 case, the abusive former partner of a debtor's employee exploited the publicly accessible creditor and employee information filed in the chapter 11 case to track the employee at her new address that had not been publicly available until then, forcing the employee to change addresses again.³ With numerous individual creditors and interest holders, the Debtors cannot reasonably know with sufficient certainty whether a release of such individual creditors' and interest holders' personal information could potentially jeopardize their safety.

13. Therefore, under these circumstances, the Debtors respectfully submit that it is appropriate to authorize the Debtors to redact the Personal Identification Information from any documents filed, or to be filed, with the Court in the Chapter 11 Cases, including their creditor matrix. Indeed, the Debtors propose to provide, on a confidential basis, an unredacted version of the creditor matrix and other filings redacted pursuant to the Proposed Order to the Court, the U.S. Trustee, the DIP Lenders, the DIP Agent, any trustee or official committee of unsecured creditors appointed in the Chapter 11 Cases, the Court, the Debtors' claims and noticing agent, and any other party in interest upon reasonable request.⁴ Such guidelines will ensure that certain parties receive fully unredacted information while balancing the Debtors' concerns about safeguarding the safety and privacy of other parties.

³ The incident, which took place during the first *Charming Charlie* chapter 11 proceedings in 2017, is described in the "creditor matrix motion" filed in *In re Charming Charlie Holdings, Inc.*, Case No. 19-11534 (CSS) (Bankr. D. Del. July 11, 2019) [Docket No. 4].

⁴ Any party in interest that is not provided with an unredacted version of the applicable document upon request may file a motion with the Court to obtain such document. In addition, each party receiving an unredacted copy of the creditor matrix or any other applicable document shall keep such Personally Identifiable Information confidential unless otherwise required to be disclosed by law or court order.

COMPLIANCE WITH LOCAL RULE 9018-1(D)(IV)

14. To the best of the knowledge, information, and belief of the undersigned proposed counsel to the Debtor, the documents that the Debtors are requesting to seal pursuant to the relief requested in this Motion do not contain information subject to the Confidentiality Rights of another Holder of Confidentiality Rights (each as defined in Local Rule 9018-1(d)(iii)).

NOTICE

15. Notice of this Motion will be provided to (a) the U.S. Trustee; (b) the holders of the twenty largest unsecured claims against the Debtors on a consolidated basis; (c) the Internal Revenue Service; (d) the United States Attorney's Office for the District of Delaware and all other states in which the Debtors operate; (e) counsel to the Pre-Petition Secured Bond Parties; (f) counsel to Piper Sandler; (g) counsel to the Pre-Petition Secured Note Parties; (h) counsel to the FW Prepetition Secured Parties; (i) counsel to the DIP Lenders; (j) counsel to the DIP Agent; and (k) all parties entitled to notice pursuant to Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

16. The Debtors have not previously sought the relief requested herein from the Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: June 23, 2023
Wilmington, Delaware

/s/ Brendan J. Schlauch

John H. Knight (No. 3848)

Paul N. Heath (No. 3704)

Brendan J. Schlauch (No. 6115)

David T. Queroli (No. 6318)

Huiqi Liu (No. 6850)

Zachary J. Javorsky (No. 7069)

RICHARDS, LAYTON & FINGER, P.A.

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

Telephone: 302-651-7700

Fax: 302-651-7701

Email: knight@rlf.com

heath@rlf.com

schlauch@rlf.com

queroli@rlf.com

liu@rlf.com

javorsky@rlf.com

Proposed Counsel to the Debtors

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

)	
In re:	)	Chapter 11
)	
KDC AGRIBUSINESS LLC, <i>et al.</i>,	)	Case No. 23-10786 (CTG)
)	
Debtors. ¹	)	(Jointly Administered)
)	
	)	Objection Deadline: July 10, 2023 at 4:00 p.m. (ET)
	)	Hearing Date: July 20, 2023 at 1:00 p.m. (ET)
)	
_____)	

NOTICE OF MOTION AND HEARING

PLEASE TAKE NOTICE that, on June 23, 2023, the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) filed the *Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to Redact Certain Personal Identification Information and (II) Granting Related Relief* (the “**Motion**”) with the United States Bankruptcy Court for the District of Delaware (the “**Court**”).

PLEASE TAKE FURTHER NOTICE that, any responses or objections to the Motion must be in writing and filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801 on or before **July 10, 2023 at 4:00 p.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before The Honorable

¹ The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: KDC Agribusiness LLC (2280), Do Good Chicken LLC (1523), Do Good Foods Facility Management LLC (3974), Do Good Foods Fort Wayne LLC (6909), Do Good Foods LLC (9976), Do Good Foods Managed Services LLC (4214), Do Good Foods Selma LLC (3776) and KDC Agribusiness Fairless Hills LLC (8680) (“**Fairless Hills**”). The debtors’ mailing address, other than Fairless Hills, is 1545 US Highway 206, Suite 100, Bedminster, New Jersey 07921. The mailing address of Fairless Hills is 250 Canal Road, Fairless Hills, Pennsylvania 19030.

Craig T. Goldblatt, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street, 3rd Floor, Courtroom No. 7, Wilmington, Delaware 19801 on **July 20, 2023 at 1:00 p.m. (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: June 23, 2023
Wilmington, Delaware

/s/ *Brendan J. Schlauch*
John H. Knight (No. 3848)
Paul N. Heath (No. 3704)
Brendan J. Schlauch (No. 6115)
David T. Queroli (No. 6318)
Huiqi Liu (No. 6850)
Zachary J. Javorsky (No. 7069)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Telephone: 302-651-7700
Fax: 302-651-7701
Email: knight@rlf.com
heath@rlf.com
schlauch@rlf.com
queroli@rlf.com
liu@rlf.com
javorsky@rlf.com

Proposed Counsel to the Debtors

Exhibit A

Proposed Order

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

In re:)	
	)	Chapter 11
KDC AGRIBUSINESS LLC, <i>et al.</i>,	)	Case No. 23-10786 (CTG)
Debtors. ¹	)	(Jointly Administered)
)	
	)	Re: Docket No. ____

ORDER (I) AUTHORIZING THE DEBTORS TO REDACT CERTAIN PERSONAL IDENTIFICATION INFORMATION AND (II) GRANTING RELATED RELIEF

Upon the motion (the “**Motion**”)² of KDC Agribusiness LLC and certain of its affiliates that are debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”) for entry of an order, pursuant to section 107(c) of the Bankruptcy Code and Local Rule 9018-1(d), (i) authorizing the Debtors to redact certain Personal Identification Information of the Debtors’ individual creditors and interest holders; and (ii) granting related relief, as more fully described in the Motion; and the Court having jurisdiction to consider the matters raised in the Motion pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and the Court having authority to hear the matters raised in the Motion pursuant to 28 U.S.C. § 157; and the Court having venue pursuant to 28 U.S.C. §§ 1408 and 1409; and consideration of the Motion and the requested relief being a core

¹ The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: KDC Agribusiness LLC (2280), Do Good Chicken LLC (1523), Do Good Foods Facility Management LLC (3974), Do Good Foods Fort Wayne LLC (6909), Do Good Foods LLC (9976), Do Good Foods Managed Services LLC (4214), Do Good Foods Selma LLC (3776) and KDC Agribusiness Fairless Hills LLC (8680) (“**Fairless Hills**”). The debtors’ mailing address, other than Fairless Hills, is 1545 US Highway 206, Suite 100, Bedminster, New Jersey 07921. The mailing address of Fairless Hills is 250 Canal Road, Fairless Hills, Pennsylvania 19030.

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

proceeding that the Court can determine pursuant to 28 U.S.C. § 157(b)(2); and due and sufficient notice of the Motion having been given under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion and the First Day Declaration; and a hearing having been held to consider the relief requested in the Motion; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors, their creditors, their estates and all other parties in interest; and upon the record herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent set forth herein.
2. The Debtors are authorized to redact in their creditor matrix and other documents filed with the Court in the Chapter 11 Cases the following Personally Identifiable Information: the home addresses of individual creditors and interest holders.
3. The Debtors shall provide, on a confidential basis, an unredacted version of the creditor matrix and other filings redacted pursuant to this Order to the Court, the U.S. Trustee, the DIP Lenders, the DIP Agent, any trustee or official committee of unsecured creditors appointed in these Chapter 11 Cases, the Court, the Debtors' claims and noticing agent, and any other party in interest upon reasonable request. Any party in interest that is not provided with an unredacted version of the applicable document upon request may file a motion with the Court to obtain such document. Each party receiving an unredacted copy of the creditor matrix or any other applicable document shall keep such Personally Identifiable Information confidential unless otherwise required to be disclosed by law or court order.
4. When serving any notice in this case on the Debtors' current or former employees, individual interest holders, or other individual creditors, the Debtors' claims agent,

and, where applicable, the Clerk of the Court and any other party in interest, shall use such individual creditor's or interest holder's home address.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual whose Personally Identifiable Information is sealed or redacted pursuant to this Order. Service of all documents and notices upon individuals whose Personally Identifiable Information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service.

6. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Order.

7. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.