

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

In re:	§	Chapter 11
SHERWIN ALUMINA COMPANY, LLC, <i>et al.</i> , <sup>1</sup>	§	Case No. 16-20012 (___)
Debtors.	§	(Joint Administration Requested)
	§	(Emergency Hearing Requested)

**EMERGENCY MOTION OF SHERWIN  
ALUMINA COMPANY, LLC, ET AL., FOR ENTRY OF  
AN ORDER EXTENDING TIME TO FILE SCHEDULES OF  
ASSETS AND LIABILITIES, SCHEDULES OF CURRENT INCOME  
AND EXPENDITURES, SCHEDULES OF EXECUTORY CONTRACTS  
AND UNEXPIRED LEASES, AND STATEMENTS OF FINANCIAL AFFAIRS**

**THIS MOTION SEEKS ENTRY OF AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Sherwin Alumina Company, LLC (2376); and Sherwin Pipeline, Inc. (9047). The debtors' service address is: 4633 Highway 361, Gregory, Texas 78359.



The above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) respectfully state the following in support of this motion (this “**Motion**”).

**Jurisdiction, Venue, and Procedural Background**

1. The United States Bankruptcy Court for the Southern District of Texas (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).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a) and 521 of title 11 of the United States Code (the “**Bankruptcy Code**”), rules 1007(c), 9006(b), and 6003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rule 9013-1(b) of the Bankruptcy Local Rules for the Southern District of Texas (the “**Bankruptcy Local Rules**”).

4. On the date hereof (the “**Petition Date**”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. A detailed description of the facts and circumstances surrounding these chapter 11 cases is set forth in the *Declaration of Kent Britton, Chief Financial Officer of Sherwin Alumina Company, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the “**First Day Declaration**”), filed contemporaneously with this Motion.

5. The Debtors continue to operate and manage their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date of this Motion, the Office of the United States Trustee has not appointed an official committee of unsecured creditors.

**Relief Requested**

6. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Order**”), extending the deadline by which the Debtors must file their schedules

of assets and liabilities, schedules of current income and expenditures, schedules of executory contracts and unexpired leases, and statements of financial affairs (collectively, the “**Schedules and Statements**”) by 14 days, for a total of 28 days from the Petition Date, through and including February 8, 2016, without prejudice to the Debtors’ ability to request additional extensions for cause shown.

**Basis for Relief**

7. The requirements of section 521 of the Bankruptcy Code and Bankruptcy Rule 1007(c) normally require debtors to file their schedules of assets and liabilities, schedules of current income and expenditures, and schedules of executory contracts and unexpired leases, and statements of financial affairs within 14 days after their petition date. Pursuant to Bankruptcy Rules 1007(c) and 9006(b), the Court has authority to extend the time required for filing of the Schedules and Statements “for cause.” Fed. R. Bankr. P. 1007(c) and 9006(b).

8. The Debtors submit that ample cause exists to grant the relief requested herein. To prepare their Schedules and Statements, the Debtors will have to compile information from books, records, and documents relating to hundreds of claims, assets, and contracts from each Debtor entity. Accordingly, collection of the necessary information will require a significant expenditure of time and effort on the part of the Debtors and their employees. Additionally, because numerous invoices related to prepetition goods and services have not yet been received and entered into the Debtors’ accounting system, it may be some time before the Debtors have access to all of the information required to prepare the Schedules and Statements.

9. In the days leading up to the Petition Date, the Debtors’ primary focus has been preparing for these chapter 11 cases. Focusing the attention of key personnel on critical operational and chapter 11 compliance issues during the early days of these chapter 11 cases will

facilitate the Debtors' smooth transition into chapter 11, thereby maximizing value for their estates, their creditors, and other parties in interest.

10. Courts in this district have granted similar relief to that requested herein in a number of cases. *See, e.g., In re BPZ Res., Inc.*, No. 15-60016 (DRJ) (Bankr. S.D. Tex. Mar. 10, 2015) (granting 30-day extension); *In re Buccaneer Res., LLC*, No. 14-60041 (DRJ) (Bankr. S.D. Tex. June 9, 2014) (granting 14-day extension); *In re Autoseis, Inc.*, No. 14-20130 (RSS) (Bankr. S.D. Tex. Mar. 27, 2014) (granting 46-day extension); *In re TMT USA Ship Mgmt. LLC*, No. 13-33763 (MI) (Bankr. S.D. Tex. June 27, 2013) (granting 30-day extension); *In re ATP Oil & Gas Corp.*, No. 12-36187 (MI) (Bankr. S.D. Tex. Aug. 21, 2012) (granting 30-day extension).<sup>2</sup>

#### **Reservation of Rights**

11. Nothing contained herein or any actions taken pursuant to such relief is intended or should be construed as: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

#### **Emergency Consideration**

12. The Debtors respectfully request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case "to the extent that relief is necessary to

---

<sup>2</sup> Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request to the Debtors' proposed counsel.

avoid immediate and irreparable harm.” As set forth in this Motion, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture and imperil the Debtors’ restructuring. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and, therefore, respectfully request that the Court approve the relief requested in this Motion on an emergency basis.

**Notice**

13. The Debtors will provide notice of this Motion to the following parties or their respective counsel (if known): (a) the Office of the United States Trustee for the Southern District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the lender under the Debtors’ proposed postpetition financing facility; (d) the lender under the Debtors’ prepetition secured credit agreement; (e) the United States Attorney’s Office for the Southern District of Texas; (f) the Internal Revenue Service; (g) the Environmental Protection Agency; (h) the office of the attorneys general for the states in which the Debtors operate; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

**No Prior Request**

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

WHEREFORE, the Debtors respectfully request that the Court enter the Order, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Respectfully Submitted,

Dated: January 11, 2016

*/s/ Zack A. Clement*

---

Zack A. Clement (TX Bar No. 04361550)

**ZACK A. CLEMENT PLLC**

3753 Drummond

Houston, Texas 77025

Telephone: (832) 274-7629

Email: zack.clement@icloud.com

- and -

Joshua A. Sussberg, P.C. (*pro hac vice* admission pending)

**KIRKLAND & ELLIS LLP**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

Email: joshua.sussberg@kirkland.com

- and -

James H.M. Sprayregen, P.C. (*pro hac vice* admission pending)

Gregory F. Pesce (*pro hac vice* admission pending)

**KIRKLAND & ELLIS LLP**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

300 North LaSalle

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Email: james.sprayregen@kirkland.com

gregory.pesce@kirkland.com

*Proposed Counsel for the  
Debtors and Debtors in Possession*

**Certificate of Service**

I certify that on January 11, 2016, 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/ Zack A. Clement*

\_\_\_\_\_  
One of Counsel

**Exhibit A**

**Proposed Order**



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

In re:  SHERWIN ALUMINA COMPANY, LLC, <i>et al.</i> , <sup>1</sup>  Debtors.	§ § § § § § § § §	Chapter 11  Case No. 16-20012 (____)  (Joint Administration Requested)  Re: Docket No. ____
--	---	---

**ORDER EXTENDING TIME TO FILE SCHEDULES OF ASSETS  
AND LIABILITIES, SCHEDULES OF CURRENT INCOME AND  
EXPENDITURES, SCHEDULES OF EXECUTORY CONTRACTS AND  
UNEXPIRED LEASES, AND STATEMENTS OF FINANCIAL AFFAIRS**

Upon the motion (the “**Motion**”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”) for entry of an order (this “**Order**”) extending the time period to file the Schedules and Statements, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 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 Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances

---

<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor’s federal tax identification number, are: Sherwin Alumina Company, LLC (2376); and Sherwin Pipeline, Inc. (9047). The debtors’ service address is: 4633 Highway 361, Gregory, Texas 78359.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "**Hearing**"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing 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 HEREBY ORDERED THAT:

1. The Motion is granted as forth herein.
2. The time within which the Debtors must file the Schedules and Statements is extended for an additional 14 days (for a total of 28 days after the Petition Date), through and including February 8, 2016, without prejudice to the Debtors' right to seek an additional extension upon cause shown therefor.
3. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
5. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: \_\_\_\_\_, 2016  
Corpus Christi, Texas

---

UNITED STATES BANKRUPTCY JUDGE