

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

In re:

**SPEEDCAST INTERNATIONAL
LIMITED, et al.,**

Debtors.¹

Chapter 11

Case No. 20-32243 (MI)

(Jointly Administered)

**Black Diamond Commercial Finance,
L.L.C.; BDCM Opportunity Fund IV,
L.P.; BDCM Opportunity Fund V, L.P.;
Black Diamond CLO 2016-1 Ltd.; Black
Diamond CLO 2017-1 Ltd.; and Black
Diamond CLO 2019-2 Ltd.,**

Plaintiffs,

vs.

**Centerbridge Partners, L.P.; CCP III
Credit Acquisition Holdings, LLC; CB
Hermes Holdings, L.P.; Centerbridge
Capital Partners III, L.P.; and
Centerbridge Capital Partners SBS III,
L.P.,**

Defendants.

Adversary No. 20-3496 (MI)

**PLAINTIFFS' MOTION FOR AUTHORIZATION TO FILE
COMPLAINT UNDER SEAL**

THIS MOTION SEEKS 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

¹ A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <http://www.kccllc.net/speedcast>. The Debtors' service address for the purposes of these chapter 11 cases is 4400 S. Sam Houston Parkway East, Houston, Texas 77048.



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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. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

Black Diamond Commercial Finance, L.L.C., BDCM Opportunity Fund IV, L.P., BDCM Opportunity Fund V, L.P., Black Diamond CLO 2016-1 Ltd., Black Diamond CLO 2017-1 Ltd., and Black Diamond CLO 2019-2 Ltd. (collectively, “**Plaintiffs**”), respectfully submit this *Motion for Authorization to File Complaint Under Seal* (this “**Motion**”). In support of this Motion, Plaintiffs respectfully state as follows:

RELIEF REQUESTED

1. Plaintiffs respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, (i) authorizing them to file under seal the *Complaint* (the “**Complaint**”), filed contemporaneously herewith, and (ii) granting related relief.

JURISDICTION AND VENUE

2. This Motion is brought pursuant to 11 U.S.C. §§ 105(a) and 107(b), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 9037-1 and 9013-1 of the Local Bankruptcy Rules for the Southern District of Texas (the “**Local Bankruptcy Rules**”). This Court has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

BASIS FOR RELIEF REQUESTED AND APPLICABLE AUTHORITY

3. Section 105(a) of the Bankruptcy Code codifies the inherent equitable powers of the Court and empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 107(b) of the Bankruptcy Code provides the Court with the power to enter orders that will protect entities from potential harm that may result from disclosure of certain information. *See In re Gen. Homes Corp.*, 181 B.R. 898, 903 (Bankr. S.D. Tex. 1995). It 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—protect any entity with respect to a trade secret or confidential research, development, or commercial information.” 11 U.S.C. § 107(b)(1).

4. On September 16, 2020, this Court entered the *Stipulated Protective Order* [Docket No. 703] (the “**Protective Order**”), which provides that “[u]nless otherwise agreed by the Producing Party, all Designated Material filed with the Court, and all portions of pleadings, motions, or other papers filed with the Court that disclose Highly Confidential or Confidential Material, shall be filed under seal” Protective Order ¶ 13.

5. Plaintiffs’ Complaint contains certain information which the Debtors and certain other parties have identified and treated as Highly Confidential and/or Confidential Material, as such terms are defined in the Protective Order. As such, Plaintiffs will respect the parties’ designations that this information remain confidential and request authority to submit the Complaint under seal for *in camera* review.

6. Bankruptcy Rule 9018 defines the procedures by which a party may move for relief under section 107(b) of the Bankruptcy Code. Bankruptcy Rule 9018 provides, in relevant part, that on motion “the court may make any order which justice requires . . . to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial

information” Bankruptcy Local Rule 9037-1(c) provides, in relevant part, that “[a] motion, reply or other document may initially be filed under seal if the filing party simultaneously files a motion requesting that the document be maintained under seal.” Pursuant to this Rule, Plaintiffs have filed the Complaint with access restricted to Court users only. Plaintiffs acknowledge and understand that if this Motion is not granted, it will have the opportunity to withdraw the materials before the public is given access to them.

7. Plaintiffs respectfully request that the Court enter an order authorizing them to file the Complaint under seal.

[Remainder of page intentionally left blank]

CONCLUSION

Plaintiffs respectfully request that this Court enter the order, substantially in the form attached hereto as **Exhibit A**, authorizing Plaintiffs to file the Complaint under seal, and granting such other and further relief as may be just and proper.

Dated: Houston, Texas
December 9, 2020

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

/s/ Wallis M. Hampton

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be served by electronic transmission via the Court's ECF system to all parties registered to receive electronic notice in this case.

/s/ Wallis M. Hampton

Wallis M. Hampton

EXHIBIT A

Proposed Order

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**ORDER AUTHORIZING PLAINTIFFS
TO FILE COMPLAINT UNDER SEAL**

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(cont'd)

Upon consideration of *Plaintiffs' Motion for Authorization to File Complaint Under Seal* (the "**Motion**")²; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided under the circumstances; and it further appearing that cause exists to grant the relief requested in the Motion and that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; and upon due consideration of the Motion; and upon all of the proceedings had before the Court; and after due deliberation thereon and sufficient cause appearing therefor:

IT IS HEREBY ORDERED that:

1. Pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, Plaintiffs are authorized to file the Complaint, in its entirety, under seal.
2. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.
3. Plaintiffs are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
4. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

DATED: _____, 2020

THE HONORABLE MARVIN ISGUR
UNITED STATES BANKRUPTCY JUDGE

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