

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

In re:

PENSON WORLDWIDE, *et al.*,<sup>1</sup>

Debtors.

PENSON TECHNOLOGIES LLC, (successor in  
interest to SAI HOLDINGS, INC. and PENSON  
FINANCIAL SERVICES, INC.),

Plaintiff,

-against-

SCHONFELD GROUP HOLDINGS LLC,

Defendant.

Chapter 11

Case No. 13-10061 (LSS)

(Jointly Administered)

Adv. Pro. No. 16-51522 (LSS)

**DEFENDANT SCHONFELD GROUP HOLDINGS LLC  
MOTION FOR SUMMARY JUDGMENT**

Defendant Schonfeld Group Holdings LLC (“Schonfeld”) hereby moves for summary judgment dismissing the complaint of Penson Technologies LLC (“Penson”) pursuant to Fed. R. Civ. P. 56(a) and Fed. R. Bankr. P. 7056.

As set forth in the accompanying Memorandum of Law and the Declaration of Andrew Fishman in Support of Defendant Schonfeld Group Holdings LLC’s Motion for Summary Judgment, both of which are incorporated herein by reference, summary judgment is appropriate

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<sup>1</sup> The Debtors in these jointly administered cases, along with the last four digits of each Debtor’s federal tax identification number, are: Penson Worldwide, Inc. (6356); SAI Holdings, Inc. (3657); Penson Financial Services, Inc. (3990); Penson Financial Futures, Inc. (6207); and Penson Futures (6207). The Debtors’ mailing address is 5960 W. Parker Rd. #278-198, Plano, Texas 75093.



in this case because (i) the Asset Purchase Agreement underlying this action does not obligate Schonfeld to guarantee Opus' performance under that certain Portfolio Margining Account Side Agreement (the "**PMA**") such that Counts One, Three, Four, and Five fail as a matter of law; and (ii) Opus' liability under the PMA was finally adjudicated and satisfied in full in connection with a binding arbitration before the Financial Industry Regulatory Authority (the "**FINRA Arbitration**") such that Schonfeld has no responsibility as guarantor for Opus' conduct and Count Two fails as a matter of law.

Alternatively, if this Court is not inclined to grant summary judgment based upon the above arguments, it should grant summary judgment because all of the claims and issues raised in Penson's complaint were litigated in the course of the FINRA Arbitration such that *res judicata* and collateral estoppel bar them from being re-litigated here.

There are no material facts in dispute that would preclude the Court from granting summary judgment in favor of Schonfeld and dismissing the Complaint and Schonfeld is entitled to judgment as a matter of law.

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Dated: July 31, 2018  
Wilmington, Delaware

COLE SCHOTZ P.C.

By: /s/ Nicholas J. Brannick  
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and

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*Counsel to Defendant, Schonfeld Group  
Holdings LLC*

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**Related to Adv. Docket No. \_\_\_**

**ORDER GRANTING DEFENDANT SCHONFELD GROUP  
HOLDINGS LLC'S MOTION FOR SUMMARY JUDGMENT**

This matter having come before the Court on the motion (the "**Motion**") of defendant Schonfeld Group Holdings LLC ("**Schonfeld**"), seeking an Order granting summary judgment and dismissing the complaint (the "**Complaint**") of Penson Technologies LLC ("**Penson**") pursuant to Fed. R. Civ. P. 56(a) and Fed. R. Bankr. P. 7056; and the Court finding that notice of the Motion was adequate under the circumstances; and the Court having considered the Motion, any objection to the Motion, and any response to any objection; and the Court having determined

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that the legal and factual bases set forth in the Motion and the documents submitted in support thereof, establish just cause for the relief requested therein; and upon all of the proceedings before the Court, after due deliberation and sufficient cause appearing; therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion and the relief requested therein are **GRANTED**.
2. Summary judgment is granted and the Complaint shall be, and hereby is,

**DISMISSED WITH PREJUDICE**, pursuant to Fed. R. Civ. P. 56(a), made applicable to this adversary proceeding by Fed. R. Bankr. P. 7056.

3. The Court retains jurisdiction over any proceeding arising from or related to this Order.

Dated: \_\_\_\_\_, 2018  
Wilmington, Delaware

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THE HONORABLE LAURIE S. SILVERSTEIN  
UNITED STATES BANKRUPTCY JUDGE