

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	Chapter 11
	:	
SWIFT ENERGY COMPANY, <i>et al.</i> , ¹	:	Case No. 15-12670 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Re: Docket Nos. 243, 393, 436

**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER
AUTHORIZING FILING UNDER SEAL OF EXHIBIT C TO
THE 2016 EQUITY INCENTIVE PLAN OF SWIFT ENERGY COMPANY**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") hereby respectfully move (this "Motion to Seal") for entry of an order, pursuant to sections 107(b) and (c) of the Bankruptcy Code, Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 9018-1(b) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), authorizing the Debtors to file under seal Exhibit C to the 2016 Equity Incentive Plan of Swift Energy Company (the "Incentive Plan"), filed as Exhibit I.A.80 to the Joint Plan of Reorganization of the Debtors and Debtors in Possession. In support of this Motion to Seal, the Debtors respectfully represent as follows:

Background

1. On December 31, 2015 (the "Petition Date"), each of the Debtors commenced a case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy

¹ The Debtors are the following nine entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Swift Energy Company (0661); Swift Energy International, Inc. (6721); Swift Energy Group, Inc. (8150); Swift Energy USA, Inc. (8212); Swift Energy Alaska, Inc. (6493); Swift Energy Operating, LLC (2961); GASRS LLC (4381); SWENCO-Western, LLC (0449); and Swift Energy Exploration Services, Inc. (2199). The address of each of the Debtors is 17001 Northchase Drive, Suite 100, Houston, Texas 77060.



Code.² The Debtors are continuing in possession of their properties and are managing their businesses, as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On January 14, 2016, the United States Trustee for the District of Delaware (the "U.S. Trustee") appointed, pursuant to section 1102 of the Bankruptcy Code, a committee of unsecured creditors (the "Committee").

3. The Debtors are an independent energy company engaged in the exploration, development, production and acquisition of oil and natural gas properties. The Debtors are headquartered in Houston, Texas. Their primary assets and operations are focused in the Eagle Ford trend of South Texas and, to a lesser extent, the onshore and inland waters of Louisiana. For the nine months ended September 30, 2015, the Debtors generated revenue of approximately \$195.7 million from net oil and gas production of 8.8 million barrels of oil equivalents (MMBoe). Crude oil represented 47% and natural gas represented 44% of the Debtors' oil and gas revenues for the nine months ended September 30, 2015 (22% and 66% of the volumes for crude oil and natural gas, respectively), with the remaining production and revenues coming from natural gas liquids (NGLs).

4. Additional information regarding the Debtors and these cases, including the Debtors' businesses, corporate structure, financial condition, and the reasons for and objectives of these cases, is set forth in the Declaration of Dean E. Swick in Support of First Day Pleadings, filed on the Petition Date.

² This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

5. On March 9, 2016, the Debtors filed the Notice of Filing of Supplemental Disclosure and Exhibits to the Joint Plan of Reorganization [Docket No. 393] (the "Initial Plan Exhibit Notice"). Pursuant to the Initial Plan Exhibit Notice, the Debtors indicated that they would file the management incentive program agreements (the "MIP Agreements") (Plan Exhibit I.A.80) as soon as practicable, and later attached the MIP Agreements as Exhibit A to their Notice of Filing of Management Incentive Program Agreements to the Joint Plan of Reorganization [Docket No. 436] (the "MIP Agreement Notice").

6. As attached to the MIP Agreement Notice, Exhibit C of the Incentive Plan details the shares and options to be granted to certain employees under the terms of the Incentive Plan (the "Confidential Employee Exhibit").

Relief Requested

7. By this Motion to Seal, the Debtors seek entry of an order, pursuant to section 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1(b), authorizing the Debtors to file the Confidential Employee Exhibit under seal, and directing that the Confidential Employee Exhibit remain under seal, confidential, and not made available to anyone, except for the Court, the Office of the U.S. Trustee for the District of Delaware, counsel to the Committee, and others only (a) at the discretion of the Debtors or (b) upon further order of the Court.

Basis for Relief Requested

8. Although the public has a common law "right of access to judicial proceedings and records," In re Cendant Corp., 260 F.3d 183, 192 (3d Cir. 2001), the Bankruptcy Code requires courts, in appropriate circumstances, to protect the businesses of debtor corporations by limiting the public's access, placing papers under seal, or otherwise entering orders to prohibit the dissemination of sensitive information. See 11 U.S.C. § 107(b), Fed. R.

Bankr. P. 9018. Specifically, section 107(b) provides that "[o]n request of a party in interest, the bankruptcy court shall . . . protect an entity with respect to a trade secret or confidential research, development, or commercial information" 11 U.S.C. § 107(b). Further, section 107(c) provides that the bankruptcy court, for cause, may protect an individual from information filed in a case "to the extent that the court finds that disclosure of such information would create . . . unlawful injury to the individual or the individual's property." 11 U.S.C. § 107(c).

9. Bankruptcy Rule 9018 implements section 107 by providing that "[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information" Fed. R. Bankr. P. 9018.

10. Courts in Delaware define commercial information as "information which would result in 'an unfair advantage to competitors by providing them information as to the operations of the debtor.'" In re Alterra Healthcare Corp., 353 B.R. 66, 75 (Bankr. D. Del. 2006) (quoting Video Software Dealers Assoc. v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 27-28 (2d Cir. 1994)). An order sealing commercial information is appropriate where the disclosure of the commercial information could "reasonably be expected to cause [] commercial injury" and the information is "critical" to the operations of the entity seeking protection, such that the information's "disclosure will unfairly benefit that entity's competitors." See Alterra Healthcare, 353 B.R. at 75-76 (citations omitted); In re Mum Servs., Inc., 279 B.R. 478, 484 (Bankr. D. Del. 2002) (noting that § 107(b) "was intended to avoid affording an unfair advantage to competitors by providing them information as to the commercial operations of the debtor") (internal citations omitted). Further, confidential commercial information does not need to rise to the level of a trade secret to be entitled to protection under section 107(b). See,

e.g., Orion Pictures, 21 F.3d at 28 ("courts interpreting § 107(b) need not require that commercial information be the equivalent of a trade secret before protecting such information.").

11. Once a court determines that the information in question falls within one of the enumerated categories in section 107(b), "the court is required to protect a requesting interested party and has no discretion to deny the application. Id. The Court has broad authority to issue such an order under Bankruptcy Rule 9018. See In re Global Crossing Ltd., 295 B.R. 720, 724 (Bankr. S.D.N.Y. 2003) ("When the requirements of Rule 9018 are satisfied, the authority to issue the resulting order is broad – 'any order which justice requires.' The Court notes that the authority goes not just to the protection of confidential documents, but to other confidentiality restrictions that are warranted in the interests of justice.").

12. In addition, under section 105(a) of the Bankruptcy Code, the Court may "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions" of the Bankruptcy Code. 11 U.S.C. § 105(a).

13. The Debtors submit that good cause exists for the Court to grant the relief requested herein. The Confidential Employee Exhibit contains confidential information concerning certain of the Debtors' employees (the "Employees"), including the amounts received under the Incentive Plan, that is not in the public realm. The Employees are not debtors in these proceedings and through this Motion to Seal the Debtors seek to protect the sensitive and private information of those employees and to avoid any impact on employee morale. If such information were to be made public, confidential information will be disclosed to the detriment of the Employees, the Debtors, their estates, and their creditors.

14. Bankruptcy courts in this District routinely have authorized debtors in other chapter 11 cases to file under seal sensitive employee and personnel information. See, e.g.,

In re Digital Domain Media Grp., Inc., Case No. 12-12568 (BLS) (Bankr. D. Del. Oct. 22, 2012) [Docket No. 318] (authorizing debtors to file under seal information related to debtors' key employee incentive plan); In re Nortel Networks Inc., Case No. 09-10138 (KG) (Bankr. D. Del. Aug. 27, 2012) [Docket No. 8327] (authorizing debtors to file under seal information related to debtors' retired and long-term disabled employees); In re Ritz Camera & Image, LLC, Case No. 12-11868 (KG) (Bankr. D. Del. Aug. 27, 2012) [Docket No. 368] (authorizing debtors to file under seal information related to debtors' employee incentive plan); In re WP Steel Venture LLC, Case No. 12-11661 (KJC) (Bankr. D. Del. July 18, 2012) [Docket No. 626] (authorizing debtors to file under seal information related to debtors' management incentive program); In re Blitz U.S.A., Inc., Case No. 11-13603 (PJW) (Bankr. D. Del. June 26, 2012) [Docket No. 550] (authorizing debtors to file under seal information related to debtors' employee bonus plan).

15. Accordingly, the Debtors respectfully submit that the relief requested in this Motion should be granted.

Consent to Jurisdiction

16. Pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final judgment or order with respect to this motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

Notice

17. Notice of this application will be provided to: (a) the U.S. Trustee; (b) counsel to the Committee; (c) Kirkland & Ellis LLP, as counsel to the ad hoc committee of a majority of holders of the Debtors' prepetition unsecured notes; (d) counsel to JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the senior secured lenders; (e) counsel to Wilmington Trust, N.A., in its capacity as indenture trustee under the respective prepetition indentures governing the senior notes; (f) counsel to Cantor Fitzgerald Securities LLC, in its

capacity as administrative agent under the proposed debtor in possession financing; and (g) all parties entitled to notice pursuant to Bankruptcy Rule 2002. Due to the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this application is necessary.

No Prior Request

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

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit A, granting: (i) the relief requested herein; and (ii) such other and further relief to the Debtors as the Court may deem proper.

Dated: March 24, 2016
Wilmington, Delaware

Respectfully submitted,

/s/ Brendan J. Schlauch
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Brendan J. Schlauch (DE 6115)
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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re	:	Chapter 11
	:	
SWIFT ENERGY COMPANY, <i>et al.</i> , ¹	:	Case No. 15-12670 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Hearing: March 30, 2016 at 10:30 a.m. (ET)
	:	(Proposed)
	:	Obj. Deadline: March 30, 2016 at 9:00 a.m. (ET)
	:	(Proposed)

NOTICE OF MOTIONS AND HEARING

PLEASE TAKE NOTICE that, on March 24, 2016, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the **Motion of the Debtors for Entry of an Order Authorizing the Filing Under Seal of Exhibit C to the 2016 Equity Incentive Plan of Swift Energy Company** (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that, contemporaneously with the filing of the Motion, the Debtors also filed a motion to shorten the notice and objection periods with respect to the Motion (the "Motion to Shorten").

PLEASE TAKE FURTHER NOTICE that if the Bankruptcy Court grants the relief requested in the Motion to Shorten (i) a hearing to consider the Motion will be held on **March 30, 2016 at 10:30 a.m. (EDT)** before The Honorable Mary F. Walrath, United States Bankruptcy Judge for the District of Delaware, at the Bankruptcy Court, 824 North Market Street, 5th Floor,

¹ The Debtors are the following nine entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Swift Energy Company (0661); Swift Energy International, Inc. (6721); Swift Energy Group, Inc. (8150); Swift Energy USA, Inc. (8212); Swift Energy Alaska, Inc. (6493); Swift Energy Operating, LLC (2961); GASRS LLC (4381); SWENCO-Western, LLC (0449); and Swift Energy Exploration Services, Inc. (2199). The address of each of the Debtors is 17001 Northchase Drive, Suite 100, Houston, Texas 77060.

Courtroom 4, Wilmington, Delaware 19801 and (ii) responses or objections to the Sale Motion, if any, shall be filed and served prior to **March 30, 2016 at 9:00 a.m. (EDT)**.

PLEASE TAKE FURTHER NOTICE that if the Bankruptcy Court denies, in whole or in part, the relief requested in the Motion to Shorten, parties-in-interest will receive separate notice of the Bankruptcy Court-approved objection deadline and hearing date for the Motion.

Dated: March 24, 2016
Wilmington, Delaware

Respectfully submitted,

/s/ Brendan J. Schlauch

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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re	:	Chapter 11
	:	
SWIFT ENERGY COMPANY, <i>et al.</i> , ¹	:	Case No. 15-12670 (MFW)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	Re: Docket Nos. 243, 393, 436 & _____

**ORDER AUTHORIZING FILING UNDER SEAL OF EXHIBIT C TO
THE 2016 EQUITY INCENTIVE PLAN OF SWIFT ENERGY COMPANY**

This matter coming before the Court on the Motion of the Debtors for Entry of an Order Authorizing Filing Under Seal of Exhibit C to the 2016 Equity Incentive Plan of Swift Energy Company (the "Motion to Seal");² and it appearing that the relief requested is in the best interests of the Debtors, their estates and their creditors; and notice of the Motion to Seal being appropriate under the circumstances and no other or further notice need be given; upon the record herein and after due deliberation thereon; and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion to Seal is GRANTED.
2. Pursuant to 107(b) and 107(c) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1(b), the Debtors are authorized to file the Confidential Employee Exhibit under seal.

¹ The Debtors are the following nine entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Swift Energy Company (0661); Swift Energy International, Inc. (6721); Swift Energy Group, Inc. (8150); Swift Energy USA, Inc. (8212); Swift Energy Alaska, Inc. (6493); Swift Energy Operating, LLC (2961); GASRS LLC (4381); SWENCO-Western, LLC (0449); and Swift Energy Exploration Services, Inc. (2199). The address of each of the Debtors is 17001 Northchase Drive, Suite 100, Houston, Texas 77060.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion to Seal.

3. The Confidential Employee Exhibit shall remain under seal, confidential, and not made available to anyone, except for the (i) Court, (ii) the Office of the U.S. Trustee for the District of Delaware, (iii) counsel to the Committee, and others only (a) at the discretion of the Debtors or (b) upon further order of the Court.

4. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, or enforcement of this Order.

Dated: _____, 2016
Wilmington, Delaware

THE HONORABLE MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE