

**THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
CHEMTURA CORPORATION, <i>et al.</i> , ¹)	Case No. 09 11233 (REG)
)	
Debtors.)	Jointly Administered
)	

PROPOSED ORDER REGARDING CONFIDENTIALITY OF DISCOVERY

Chemtura Corporation and its affiliated debtors and debtors in possession (“**Chemtura**” or the “**Debtors**”) seek the disclosure of information regarding: (i) diacetyl-related claims (the “**Diacetyl Claims**”) filed against the Debtors; and (ii) past settlements of claims alleging injury from exposure to diacetyl. Recognizing that this information may contain personal medical information and financial data and that the settlement information requires a higher level of protection, in order to expedite the exchange of discovery materials, to facilitate the prompt resolution of disputes over confidentiality, and to protect discovery material entitled to be kept confidential, the Court hereby **ORDERS** as follows:

1. The Debtors, the Committee of Unsecured Creditors (the “**Creditors’ Committee**”), the Committee of Equity Security Holders (the “**Equity Committee**”), the Debtors’ postpetition and prepetition secured lenders (the “**Lenders**”), and the holders of

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal taxpayer-identification number, are: Chemtura Corporation (3153); A&M Cleaning Products, LLC (4712); Aqua Clear Industries, LLC (1394); ASCK, Inc. (4489); ASEPSIS, Inc. (6270); BioLab Company Store, LLC (0131); BioLab Franchise Company, LLC (6709); Bio-Lab, Inc. (8754); BioLab Textile Additives, LLC (4348); CNK Chemical Realty Corporation (5340); Crompton Colors Incorporated (3341); Crompton Holding Corporation (3342); Crompton Monochem, Inc. (3574); GLCC Laurel, LLC (5687); Great Lakes Chemical Corporation (5035); Great Lakes Chemical Global, Inc. (4486); GT Seed Treatment, Inc. (5292); HomeCare Labs, Inc. (5038); ISCI, Inc. (7696); Kem Manufacturing Corporation (0603); Laurel Industries Holdings, Inc. (3635); Monochem, Inc. (5612); Naugatuck Treatment Company (2035); Recreational Water Products, Inc. (8754); Uniroyal Chemical Company Limited (Delaware) (9910); Weber City Road LLC (4381); and WRL of Indiana, Inc. (9136).

diacetyl-related claims (the “**Claimants**”) are parties (collectively, the “**Parties**”) to a proceeding to estimate the value of certain diacetyl-related claims (the “**Estimation Hearing**”).

2. In connection with the Estimation Hearing, the Parties have sought or may seek certain discovery from one another, and from third parties (the “**Non-Parties**”), including through service of document requests, interrogatories, depositions, subpoenas, and otherwise as provided by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court (the “**Discovery Requests**”).

3. This Order applies to all information, documents and things subject to discovery in this action produced either by a Party or a Non-Party (each a “**Producing Person**”) in response to or in connection with any discovery conducted related to the Estimation Hearing, including without limitation, deposition testimony (whether based upon oral examination or written questions), answers to interrogatories, requests for admission, responses to requests for admission, documents and things produced (including documents and things produced to the receiving Party for inspection and documents and things provided to the receiving Party, whether in the form of originals or copies) as well as any and all copies, abstracts, digests, notes, summaries, and excerpts thereof (collectively referred to as the “**Discovery Material**”).

A. Confidential Discovery Material

4. A Producing Person may designate Discovery Material as “Confidential” if such Producing Person believes in good faith that such Discovery Material constitutes or includes information that has not been made public and that the Producing Person would not make public in the ordinary course of its activities, including but not limited to technical, business, financial, personal or other information, including information that is protected by PL 104-191, the Health Insurance Portability and Accountability Act (the “**Confidential Material**”).

5. Any Confidential Material may be designated by the Producing Person as such by marking the first page with the word “Confidential.”

6. Confidential Material and the substantive information contained within shall be given, shown, made available to or communicated only to the following:

- (a) the Parties and their professionals;
- (b) testifying and consulting experts retained by the Parties (the “**Experts**”);
- (c) any person who is identified as a witness at a deposition or hearing in connection with the Estimation Hearing (a “**Witness**”), provided that such Witness may not maintain any Confidential Material in his or her possession;
- (d) the Court, its officers, and clerical staff;
- (e) outside photocopying, graphic production services, or litigation support services;
- (f) court reporters, stenographers, or videographers who record deposition or other testimony in the litigation; and
- (g) any other person or entity to whom the Producing Person may consent in writing.

7. Before any Expert is given access to Confidential Material or Confidential Settlement Material (as defined below), such person shall be given a copy of this Order and sign the acknowledgement attached hereto as Exhibit A, acknowledging that he or she read the Order and agrees to be bound by the terms thereof.

8. The Parties shall attempt in good faith to maintain the confidentiality of Confidential Material by filing the same under seal, pursuant to the applicable rules and procedures of the United States Bankruptcy Court for the Southern District of New York, the United States District Court for the Southern District of New York, and the United States Court of Appeals for the Second Circuit.

9. To the extent that any Party wishes to use Confidential Material at a court hearing in the above-captioned proceedings, the Party who intends to use such Confidential Material shall provide the Producing Person with sufficient advance notice to afford the producer a reasonable opportunity to object to the use of such information. For purposes of using such documents or information at trial, the inclusion of a document containing Confidential Material on a Party's pre-trial exhibit list shall satisfy this notice requirement.

10. In the case of depositions, if counsel for a Party believes that a portion or all of the testimony given at a deposition constitutes Confidential Material of such Party or Non-Party, counsel shall so state on the record and shall request that the entire transcript or the relevant portion of testimony be sealed. In addition, any Party may designate the transcript or videotape of a deposition as Confidential within seven (7) calendar days of the Party's receipt of the transcript from the court reporter. Such designation and notice shall be made in writing to the court reporter, with copies to all other counsel, identifying the portion(s) of the transcript that constitute items designated as Confidential Material.

11. If any receiving Party objects to the designation of any Discovery Material as "Confidential," the receiving Party shall first raise the objection with the Party responsible for such designation, and seek to confer in good faith by telephone or in person to attempt to resolve any dispute respecting the terms or operation of this Order. If such dispute cannot be resolved within seven (7) calendar days, the objecting Party may then move the Bankruptcy Court for appropriate relief.

B. Designation of Discovery Material As Attorneys' Eyes Only

12. A Producing Person may designate Discovery Material as "CHEMTURA BANKRUPTCY ACTION ATTORNEYS' EYES ONLY" if such Producing Person believes in

good faith that such Discovery Material discloses the material terms of individual settlement agreements relating to settlements of personal injury claims involving exposure to diacetyl and/or acetoin (“**Confidential Settlement Information**”).

13. The Producing Person shall redact from the Confidential Settlement Information the names and identifying information of the settling parties.

14. The Confidential Settlement Information and any documents containing the Confidential Settlement Information shall be identified and labeled “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” in addition to being deemed “CONFIDENTIAL” pursuant to the above provisions.

15. Confidential Settlement Information and documents designated as “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” shall be disclosed only to the persons identified below, shall be used only in strict accordance with this Order, and shall only be used for prosecuting or defending this bankruptcy action:

- (a) professionals representing Chemtura in these chapter 11 proceedings;
- (b) professionals representing the Creditors’ Committee, the Equity Committee, and the Lenders;
- (c) professionals representing the Claimants in these chapter 11 proceedings;
- (d) the Experts; and
- (e) the Court, its officers, and clerical staff.

The above-identified professionals shall represent to the Producing Person that the professionals at their respective firms with access to the Confidential Settlement Information are not presently involved in any litigation concerning diacetyl and/or acetoin.

16. Confidential Settlement Information and documents designated “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” shall NOT be shown to, produced, or

used in any way that would allow it to become known to persons not identified in paragraph 15 above, any other parties in this bankruptcy action, or any counsel representing the Claimants, Chemtura, or any other defendant in the underlying tort or indemnification and contribution litigation, any non-parties, or the general public.

17. If Confidential Settlement Information and/or documents designated “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” are filed with the Court, the sealed envelope or other sealed container shall also contain a statement in substantially the following form:

CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY
HIGHLY CONFIDENTIAL
SUBJECT TO ATTORNEYS’ EYES ONLY PROTECTIVE ORDER
ENTERED [DATE OF ENTRY] IN NO. 09-11233
UNITED STATES BANKRUPTCY COURT- S.D.N.Y.

18. Any service copies of documents filed pursuant to paragraphs 8 and 17 above shall have all Confidential Material and Confidential Settlement Information redacted from the document prior to service.

19. No reference shall be made to any Confidential Settlement Information and documents designated as “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” in open court by any party or witness in this bankruptcy action. To the extent that any Confidential Settlement Information or documents marked as “CHEMTURA BANKRUPTCY ACTION ATTORNEYS’ EYES ONLY” must be discussed at the Estimation Hearing, the Party wishing to introduce such evidence shall inform the Court and the Court, at its discretion, may hear such discussions *in camera* in the presence of only Court staff and those persons identified in paragraph 15. However, nothing in this Order shall prevent the Debtors, the Creditors’ Committee, the Equity Committee, the Lenders, or the Claimants from publicly disclosing aggregate values or estimates of the Debtors’ potential liability for the Diacetyl Claims,

including in or in connection with a Disclosure Statement, Plan of Reorganization, or related documents.

C. Additional Provisions Regarding The Use Of Confidential Material And Confidential Settlement Material

20. The Confidential Material and Confidential Settlement Information may only be used in connection with the Estimation Hearing and for no other purpose.

21. The limitations on disclosure contained in this Order shall not apply to documents or information that (i) were already in the possession of the receiving Party, without an obligation of confidentiality to another person, including a Party, prior to their disclosure in this case; (ii) are received on a non-confidential basis from a person that does not owe an obligation of confidentiality to any other person, including a Party, with respect thereto; or (iii) are published or become publicly available in a manner that is not in violation of this Order or of any obligation of confidentiality to any other person, including a Party.

22. This Order, and the narrowly limited attorneys'-eyes-only use of Confidential Settlement Information and/or documents designated as "CHEMTURA BANKRUPTCY ACTION ATTORNEYS' EYES ONLY" for the purpose described herein, shall not be deemed any waiver of the confidentiality provisions contained in the Diacetyl Claimants' and underlying tort defendants' settlement agreements.

23. Within 60 days of the conclusion of all proceedings, and any appeal, in connection with the plan confirmation, all Confidential Material, Confidential Settlement Information, and documents designated as "CHEMTURA BANKRUPTCY ACTION ATTORNEYS' EYES ONLY" shall be returned to counsel for the respective Producing Parties, or destroyed. If a person in possession of Confidential Material, Confidential Settlement Information, and documents designated as "CHEMTURA BANKRUPTCY ACTION

ATTORNEYS' EYES ONLY" chooses to destroy documents after the conclusion of these proceedings, that person shall certify such destruction in writing to counsel for the Producing Person, International Flavors & Fragrances, Inc., Bush Boake Allen, Inc., Polarome International, Inc., Givaudan Flavors Corporation, Berje Incorporated, and Firmenich Incorporated. Notwithstanding anything in this paragraph, to the extent that the information in the Confidential Material, Confidential Settlement Information, and documents designated as "CHEMTURA BANKRUPTCY ACTION ATTORNEYS' EYES ONLY" remains confidential, the terms of this Order shall remain binding.

24. This Order applies to all Non-Parties that are served with subpoenas in connection with the Motion or who otherwise produce documents or are noticed for deposition in connection with the Motion, and all such Non-Parties are entitled to the protection afforded hereby upon signing a copy of this Order and agreeing to be bound by its terms.

25. Any person or Party subject to this Order that may be subject to a motion or other form of legal process seeking the disclosure of another Party's or Non-Party's information designated under one of the categories of confidentiality pursuant to this Order: (i) shall promptly notify that Party or Non-Party so that it may have an opportunity to appear and be heard on whether that information should be disclosed, and (ii) shall not provide such materials unless required by law or with the consent of the Producing Person.

26. If information subject to a claim of attorney-client privilege, work product immunity, or other privilege is inadvertently or mistakenly produced, such production will in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of privilege or work-product immunity for such information.

27. This Order shall remain in effect after the conclusion of this case and this Court shall retain concurrent jurisdiction to enforce the terms of this protective order.

SO ORDERED:

HONORABLE ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE,
SOUTHERN DISTRICT OF NEW YORK

DATE