

SO ORDERED: December 17, 2014.



Basil H. Lorch III
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

IN RE:)	Chapter 11
)	
LILY GROUP, INC.)	Case No. 13-81073-BHL-11
)	
Debtor.)	

AGREED PROTECTIVE ORDER

IT IS HEREBY STIPULATED, by the respective counsel for Lily Group, Inc., Debtor herein ("Lily"); the Creditors' Committee as duly appointed herein ("Committee") and LC Energy Holdings LLC ("LC Energy") (collectively, the "Parties"), that the following Order be entered pursuant to FRBP Rule 7026 and Rule 26(c) of the Federal Rules of Civil Procedure:

1. Any document, interrogatory answer, deposition testimony, information or tangible materials obtained through any other means of pretrial discovery, or any portion thereof,

may be designated as confidential by the party producing it if such producing party reasonably believes that such material is entitled to protection from disclosure under the Federal Rules of Bankruptcy Procedure, Federal Civil Procedure Rules or other applicable law or rule. Such designated material shall be treated as confidential unless otherwise ordered by the Court or agreed upon by the Parties.

2. Subject to paragraph 1, material designated for protection under this Order (“Protected Material”) shall be stamped or marked “Confidential” by the party producing it. The “Confidential” stamp or similar marker shall be placed clearly on each such page or each portion of the Protected Material. In lieu of marking the original of a document, if the original is not produced, the designating party may mark the copies that are exchanged or produced.

3. All notes, extracts and summaries of Protected Material shall also be considered Protected Material and be subject to the terms of this Order.

4. Protected Material may be disclosed only to the following persons, except upon the prior written consent of counsel for the producing party:

- (a) attorneys for the Parties, and the partners, associates and employees of such attorneys;
- (b) the Chief Restructuring Officer of the Debtor;
- (c) the members of the Official Committee;
- (d) LC Energy and its officers and employees;
- (e) the Court and court personnel;
- (f) deposition and trial court reporters and deposition videographers;

- (g) bona fide consultants and experts who are engaged to provide assistance in connection with this case provided the requirements of paragraph 5 of this Order are satisfied;
- (h) witnesses or deponents in accordance with paragraphs 5 and 6 of this Order.

5. All persons to whom Protected Material is to be disclosed in accordance with the terms of this Order, except those persons enumerated in paragraphs 4(a), 4(b), 4(d), and 4(e) shall be advised by counsel of the terms of this Order and informed that they are subject to the terms and conditions of this Order. At the deposition of any witness or person under paragraph 4(g), counsel for the party designating Protected Material may request that such witness or person execute a Confidentiality Declaration in the form of Attachment 1 prior to any disclosure of any Protected Material. However, to the extent that such deponent refuses to sign the Confidentiality Declaration, that failure shall not prohibit counsel from using Protected Material during the deposition of that witness or person. Counsel obtaining any executed Confidentiality Declaration shall retain it until the conclusion of this action.

6. Any witness or deponent may be shown Protected Material which was produced by that individual's employer. Any witness or deponent may be shown Protected Material which that individual could reasonably have been expected to have had access to without regard to this litigation. A party may show Protected Material to any witness or deponent if that party determines that it is reasonably necessary to show the Protected Material to the witness or deponent and such disclosure is reasonably calculated to lead to the discovery of admissible evidence. In advance of any Protected Material being so exhibited to a witness or deponent, the witness or deponent shall be advised of this order and the obligation to adhere to

its terms. However, counsel need only advise a witness or deponent of this order and the obligations once. Among other things, the witness or deponent shall be requested (a) to not disclose any information, transcripts or documents relating to Protected Material (whether or not exhibited to the witness or deponent during the course of examination) to anyone other than persons as delineated in paragraph 4 above in the absence of agreement by the Parties or permission from the Court, and (b) to take appropriate precautions to ensure that prohibited disclosure does not occur. Counsel for the party designating Protected Material may also request that the witness or deponent execute a Confidentiality Declaration in the form of Attachment 1 or to agree on the record to the substance of said Declaration. However, to the extent that any such witness or person refuses to sign the Confidentiality Declaration, that failure shall not prohibit counsel from using Protected Material during the deposition of that witness or person.

7. Subject to paragraph 1, Protected Material disclosed at any deposition occurring in this litigation may be designated under paragraph 2 by the party claiming the testimony or information as confidential by indicating on the record at the deposition that the testimony is Protected Material. Alternatively, a party may designate deposition testimony or exhibits disclosed at such deposition as Protected Material by notifying the other party in writing within ten (10) days after receipt of a transcript of that deposition. Each party shall attach a copy of such written notice or notices to the face of the transcript and each copy thereof in its possession, custody or control. All Parties shall hold all transcripts of depositions for ten (10) days from the date of the receipt of the transcript of the deposition to allow the request for designation of Protected Material, before disclosing information obtained at the deposition to any person to whom disclosure of confidential information would not be permitted by this Order.

The court reporter shall designate those portions of the deposition transcripts which are considered to be Protected Material with an appropriate confidentiality legend.

8. A party shall not be obligated to challenge the propriety of a designation under paragraph 2 at the time made, and a failure to do so shall not preclude a subsequent challenge thereto. Any party may request in writing to the party who produced Protected Material that the designation be modified or withdrawn. If the designating party does not agree to redesignation within five (5) days of receipt of the written request, the requesting party may apply to the Court for relief. The Parties will attempt to resolve any disagreement before applying to the Court. Upon any such application to the Court for relief, the burden shall be on the designating party to show why its classification is proper. Agreement of the Parties to this Order or to a classification of Protected Material shall not be construed as an agreement or admission by one party that any designation under paragraph 2 by the other party is in any way proper or correct. Neither the entry of this Order nor the designation of any information, document or the like as Protected Material nor the failure to make such designation shall constitute evidence with respect to any issue in this action.

9. Any Protected Material filed with the Court shall be filed under seal and shall remain under seal until further order of the Court. Where possible, only portions of the filing with the Court constituting Protected Material shall be filed under seal. The party filing any Protected Material shall be responsible for informing the Clerk of the Court that the filing should be sealed and for clearly marking the material "TO BE FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER."

10. Protected Material shall, with the Court's consent, receive confidential treatment at any trial, hearing or other court proceeding, except upon written agreement by the

Parties or further order of the Court. However, for the purposes of trial, Counsel shall make reasonable efforts to advise all witnesses in advance of trial of the terms of this Order and that they may be asked to review Protected Material at the trial in this matter. Counsel is not required, however, to obtain executed Confidentiality Declarations as a prerequisite to using Protected Material at trial with any witness.

11. Within thirty (30) days after termination of this action, including any appeals, documents and other tangible items containing Protected Material, including all copies, notes and other materials containing or referring to information derived therefrom, shall be returned to the party which produced it or, upon that party's consent, destroyed, except for orders and opinions of the Court, documents filed with the Court (and copies thereof in possession of counsel for the Parties), and information incorporated as part of attorney work product, which shall remain subject to this Protective Order.

12. Protected Material produced or exchanged in the course of this case shall not be used for any purpose other than preparation for litigating the issues among the Parties, litigation of the issues, and any pre-trial or post-trial proceedings in this case.

13. Nothing in this Order shall be construed as preventing any party from using, or in any way limit such party's use of, any documents or information that were in its possession before the entry of this Order, or any documents or information that are derived lawfully from an independent source, or any documents or information that are in the public domain or that subsequently become part of the public domain through no act of such party.

14. The restrictions embodied in this Order shall be binding upon the party to whom such Protected Material is produced unless and until the Court determines that the Protected Material at issue is not deserving of such designation.

15. If a producing party discovers that it inadvertently or unintentionally produced documents or information that it considers was entitled to be withheld from production on the basis of privilege including but not limited to attorney-client privilege and work product, the producing party shall, within twenty (20) business days of the discovery of the inadvertent production, give notice to the receiving party in writing of the producing party's claim of privilege and provide a privilege log stating the specific nature of the privilege. Upon receipt of the notice, the receiving party shall immediately return to the producing party the original and all copies of the restricted materials, including copies of the restricted materials disseminated to other persons by the receiving party. However, the receiving party may retain sufficient copies to be presented to the Court in connection with any motion to compel production of the documents, or for the sole purpose of resolving any dispute arising from the claim of privilege, as described below in this paragraph. Such inadvertent or unintentional disclosure shall not be deemed a waiver in whole or in part of the producing party's claim of privilege from discovery as to specific documents and information. In the event that the receiving party disagrees with the producing party's claim of privilege, then the receiving party shall notify the producing party within five (5) business days of receipt of the producing party's written notice of claim of privilege, and shall set forth the grounds upon which the receiving party's position rests. If the Parties cannot resolve the matter, then the dispute will be presented to the Court by motion or otherwise. During the pendency of any such motion, the receiving party shall not copy, distribute, or otherwise use in any manner the disputed documents or information, except for the purposes of resolving the dispute, and shall instruct all persons to whom the receiving party has disseminated a copy of the documents or information that the documents or information are subject to this Order and may not be copied, distributed, or otherwise used pending the motion

and further notice from the Court. If either party wishes to file the disputed documents or information as an exhibit to any such motion, it must do so under seal. Should the Court ultimately find that the document is privileged and protected from discovery, the receiving party will destroy any copies it maintains, including those that it maintained for purposes of litigating the issue of whether the document was privileged or protected.

16. The treatment accorded Protected Material under this Order shall survive the termination of this case.

SO ORDERED.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

IN RE:)	Chapter 11
)	
LILY GROUP, INC.)	Case No. 13-81073-FJO-11
)	
Debtor.)	Hon. Frank J. Otte

Exhibit A – Confidentiality Agreement

1. I acknowledge that I am about to receive confidential information supplied by a party in this proceeding.
2. I have read the Protective Order governing the restricted use of confidential information in this Proceeding, a copy of which has been provided to me. I understand the Protective Order and agree to abide by it.
3. I will not utilize any Stamped Confidential Document or other information subject to the Protective Order for any purpose other than this Proceeding. I further affirm that I will not reveal the confidential information to, nor discuss it with, anyone, except in accordance with the terms of the Protective Order.
4. I understand that the Protective Order means I cannot share confidential information except with the Parties' counsel.
5. I understand unauthorized disclosures of Stamped Confidential Documents or their substance constitute contempt of Court.

6. At the termination of this Proceeding, I will return all documents marked “CONFIDENTIAL” or “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” as well as any copies, summaries or abstracts of them, and documents related to them, whether in hard copy, electronic, or digitized format, to the attorney providing confidential materials to me.
7. I submit to the jurisdiction of the United States Bankruptcy Court for the Southern District of Indiana, as necessary to enforce the provisions of the Protective Order.

Dated: _____

Signature

Printed Name

Address

City, State, Zip

Telephone Number