

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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: Chapter 11
In re: :
: Case No. 12-11661 (KJC)
: Jointly Administered
WP STEEL VENTURE LLC, et al. ¹, :
: **Hearing Date: October 17, 2012 at 2:00 p.m.**
Debtors. : **Objection Deadline: October 5, 2012 at 4:00 p.m.**
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MOTION OF SAMUEL, SON & CO., LIMITED AND ITS AFFILIATES FOR ENTRY OF AN ORDER GRANTING (A) RELIEF FROM STAY TO PERMIT SETOFF OF MUTUAL LIABILITIES; AND (B) RELATED RELIEF

Samuel, Son & Co., Limited and certain of its affiliates specified herein (collectively, "Samuel") hereby move (the "Motion") pursuant to sections 105(a), 362(d)(1) and 553(a) of title 11 of the United States Code (the "Bankruptcy Code") for entry of an order, substantially in the form attached hereto as Exhibit A (the "Order"), granting relief from the automatic stay to permit the setoff of mutual debts by and between Samuel and certain of the above captioned debtors (collectively, the "Debtors"). In support of this Motion, Samuel respectfully states as follows:

PRELIMINARY STATEMENT

Samuel asserts a right of setoff, pursuant to applicable state common law, on account of (i) the prepetition claims of certain Samuel entities against certain Debtors arising from the provision of goods and/or services prior to the Petition Date (as defined herein), and (ii) the prepetition claims of certain Debtors against certain Samuel entities in connection with the sale of goods prior to the Petition Date (as defined herein). Samuel also asserts a right of setoff,



pursuant to applicable state common law, on account of a (i) postpetition claim against one of the Debtors arising from the provision of services by a Samuel entity, and (ii) the postpetition claim by the same Debtor against the same Samuel entity in connection with transactions resulting in a credit due the same Debtor. The countervailing obligations of the parties are valid, enforceable obligations, which arose prepetition or postpetition, as the case may be, and each party incurred such debt to the other on account of such obligations in its own name, and not as a fiduciary. For a period of time pre-Petition, the parties agreed to and engaged in offsetting respective obligations. Accordingly, Samuel's right of setoff is preserved in these cases under sections 553(a) and 105 of the Bankruptcy Code and applicable state common law.

By establishing such right of setoff, Samuel asserts that sufficient "cause" exists for relief from the automatic stay under section 362(d)(1) of the Bankruptcy Code entitling Samuel to exercise its right to set off its prepetition claims against Debtors' prepetition claims and the right to set off its postpetition claims against Debtors' postpetition claims as more fully set forth herein.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction to consider and determine this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief requested herein are sections 105, 362(d)(1) and 553(a) of the Bankruptcy Code.

¹ The Debtors are (i) WP Steel Venture LLC; (ii) Metal Centers LLC; (iii) RG Steel, LLC; (iv) RG Steel Railroad Holding, LLC; (v) RG Steel Sparrows Point, LLC; (vi) RG Steel Warren, LLC; (vii) RG Steel Wheeling, LLC; and (viii) RG Steel Wheeling Steel Group, LLC.

BACKGROUND

3. On May 31, 2012 (the “Petition Date”), the Debtors each commenced a chapter 11 case in this Court by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

4. Since the formation of the Debtor Entities (as defined herein) in or about March of 2011, Samuel has conducted business with such Debtors by selling packaging and steel strapping and providing certain steel processing services. At the same time, Samuel has purchased steel from certain of those Debtors.

5. The specific Samuel entities that the Debtors engaged in business with (collectively, the “Samuel Entities”) and the specific Debtor entities that Samuel engaged in business with (collectively, the “Debtor Entities”) and the nature of their business relationship is summarized as follows:

	RG Steel Warren, LLC	RG Steel Wheeling, LLC	RG Steel Sparrows Point, LLC
<u>Samuel, Son & Co., Limited (Canada)</u> (includes Samuel Metal Trading and Nash Metal Trading)	<ul style="list-style-type: none"> • Purchased steel 		<ul style="list-style-type: none"> • Purchased steel
<u>World Class Processing Corp.</u>	<ul style="list-style-type: none"> • Sold processing services 	<ul style="list-style-type: none"> • Sold processing services 	
<u>Samuel Steel Pickling Company (a Joint Venture)</u>	<ul style="list-style-type: none"> • Purchased steel • Sold processing services 		
<u>Samuel Strapping Systems Inc.</u>	<ul style="list-style-type: none"> • Sold packaging and steel strapping 	<ul style="list-style-type: none"> • Sold packaging and steel strapping 	<ul style="list-style-type: none"> • Purchased steel
<u>Samuel, Son & Co. Inc.</u>	<ul style="list-style-type: none"> • Purchased steel 		

6. Before and after the Petition Date, the Samuel Entities provided goods and/or services to the Debtor Entities for which the Debtor Entities owed the Samuel Entities for purposes of this Motion a total aggregate amount of \$640,310 (“Debtors’ Total Liabilities”). At the same time, the Samuel Entities purchased steel from the Debtor Entities for which it accrued a liability to the Debtors together with certain credits the Samuel Entities owed to the Debtor Entities for the purposes of this Motion in the aggregate amount of \$2,404,459 (“Samuel’s Total Liabilities”).² A summary of the Debtor’s Total Liabilities and the Samuel’s Total Liabilities are more specifically broken down by Samuel Entity and Debtor Entity in the following paragraphs.

<u>PRE-OFFSET LIABILITY ANALYSIS FOR DEBTOR ENTITIES</u> (All obligations are Pre-Petition unless otherwise noted)				
	<i>Liability Incurred <u>BY</u> RG Steel Warren, LLC</i>	<i>Liability Incurred <u>BY</u> RG Steel Wheeling, LLC</i>	<i>Liability Incurred <u>BY</u> RG Steel Sparrows Point, LLC</i>	<i>Totals</i>
World Class Processing Corp.	\$71,205	\$90,481		\$161,686
World Class Processing Corp. (Post-Petition)	\$64,329			\$64,329
Samuel Steel Pickling	\$364,298			\$364,298
Samuel Strapping Systems Inc.	\$49,997			\$49,997
TOTAL	\$549,829	\$90,481		\$640,310

² The stated totals do not reflect setoff, administrative priority claims and certain other amounts. Samuel reserves all of its rights with respect to the stated amounts and does not hereby waive any defense or basis for contesting any amounts.

PRE-OFFSET LIABILITY ANALYSIS FOR SAMUEL ENTITIES
 (All obligations are Pre-Petition unless otherwise noted)

	<i>Liability Incurred TO RG Steel Warren, LLC</i>	<i>Liability Incurred TO RG Steel Wheeling, LLC</i>	<i>Liability Incurred TO RG Steel Sparrows Point, LLC</i>	Totals
Samuel, Son & Co. Inc	\$317,834			\$317,834
World Class Processing Corp.	\$21,712	\$128,539		\$150,251
World Class Processing Corp. (Post-Petition)	\$27,757			\$27,757
Samuel Steel Pickling	\$769,597			\$769,597
Samuel Strapping Systems Inc.			\$424,332	\$424,332
Samuel Strapping Systems Inc. (Post-Petition)			\$529,076 ³	\$529,076
Samuel, Son & Co., Limited			\$19,026	\$19,026
Samuel, Son & Co., Limited (Post-Petition)	\$166,586			\$166,586
TOTAL	\$1,303,486	\$128,539	\$972,434	\$2,404,459

³ The amount is net of \$17,089 in dispute.

7. As more specifically set forth in the following table, certain Samuel Entities incurred a pre-Petition liability to RG Steel Warren, LLC of \$1,109,143. RG Steel Warren, LLC has incurred liabilities to the listed Samuel Entities in a total aggregate pre-Petition Date amount of \$485,500. Total aggregate liabilities incurred by those Samuel Entities to RG Steel Warren, LLC net of setoff are \$723,133. At the same time, two Samuel Entities incurred liabilities net of setoff against RG Steel Warren, LLC in the aggregate amount of \$99,490.

<u>LIABILITY AND SETOFF ANALYSIS FOR RG STEEL WARREN, LLC</u>				
	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Warren, LLC</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Warren, LLC</i>	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Warren, LLC <u>Net of Setoff</u></i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Warren, LLC <u>Net of Setoff</u></i>
Samuel, Son & Co. Inc	\$317,834		\$317,834	
World Class Processing Corp.	\$21,712	\$71,205		\$49,493
Samuel Steel Pickling	\$769,597	\$364,298	\$405,299	
Samuel Strapping Systems Inc.		\$49,997		\$49,997
TOTAL	\$1,109,143	\$485,500	\$723,133	\$99,490

8. As more specifically set forth in the following table, for purposes of this Motion, a Samuel Entity incurred a pre-Petition liability to RG Steel Wheeling, LLC of \$128,539. RG Steel Wheeling, LLC has incurred liabilities to the same Samuel Entity in a total aggregate pre-Petition Date amount of \$90,481. Total aggregate liabilities incurred by the Samuel Entity to RG Steel Wheeling, LLC net of setoff are \$38,058.

<u>LIABILITY AND SETOFF ANALYSIS FOR RG STEEL WHEELING, LLC</u>				
	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Wheeling, LLC</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Wheeling, LLC</i>	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Wheeling, LLC Net of Setoff</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Wheeling, LLC Net of Setoff</i>
World Class Processing Corp.	\$128,539	\$90,481	\$38,058	
TOTAL	\$128,539	\$90,481	\$38,058	

9. As more specifically set forth in the following table, certain Samuel Entities incurred a total aggregate pre-Petition net liability to RG Steel Sparrows Point, LLC of \$443,358.

<u>LIABILITY AND SETOFF ANALYSIS FOR RG STEEL SPARROWS POINT, LLC</u>				
	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Sparrows Point, LLC</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Sparrows Point, LLC</i>	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Sparrows Point, LLC Net of Setoff</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Sparrows Point, LLC Net of Setoff</i>
Samuel, Son & Co., Limited (Canada)	\$19,026		\$19,026	
Samuel Strapping Systems Inc.	\$424,332		\$424,332	
TOTAL	\$443,358		\$443,358	

10. Pre-Petition Date liabilities net of setoff are further summarized as follows:

<u>LIABILITY TOTALS SUMMARY NET OF SETOFF</u>				
	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Warren, LLC Net of Setoff</i>	<i>Pre-petition Liability Incurred <u>BY</u> RG Steel Warren, LLC Net of Setoff</i>	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Wheeling, LLC Net of Setoff</i>	<i>Pre-petition Liability Incurred <u>TO</u> RG Steel Sparrows Point, LLC Net of Setoff</i>
Samuel, Son & Co. Inc	\$317,834			
World Class Processing Corp.		\$49,493	\$38,058	
Samuel Steel Pickling	\$405,299			
Samuel Strapping Systems Inc.		\$49,997		\$424,332
Samuel, Son & Co., Limited (Canada)				\$19,026
TOTAL	\$723,133	\$99,490	\$38,058	\$443,358

- Certain Samuel Entities incurred liabilities to RG Steel Warren, LLC net of setoff in the aggregate total amount of \$723,133 (\$317,834 by Samuel, Son & Co. Inc. and \$405,299 by Samuel Steel Pickling).
- RG Steel Warren, LLC incurred liabilities to certain Samuel Entities net of setoff in the aggregate amount of \$99,490 (\$49,493 to World Class Processing and \$49,997 to Samuel Strapping Systems).
- Certain Samuel Entities incurred liabilities to RG Steel Wheeling, LLC net of setoff in the aggregate total amount of \$38,058 (\$38,058 incurred by World Class Processing Corp.).
- Certain Samuel Entities incurred liabilities to RG Steel Sparrows Point, LLC net of setoff in the aggregate total amount of \$443,358 (\$424,332 by Samuel Strapping Systems Inc. and \$19,026 by Samuel, Son & Co., Limited (Canada)).

11. The foregoing is a summary of respective liabilities and a reconciliation thereof. By this Motion, Samuel more specifically proposes to setoff the pre-Petition claim of:

(i) RG Steel Warren, LLC (“Warren”) in the amount of \$21,712 against the claim of World Class Processing Corp. (“WCP”) in the amount of \$71,205; (ii) Warren in the amount of \$769,597

against the claim of Samuel Steel Pickling in the amount of \$364,298; and (iii) WCP in the amount of \$90,481 against the claim of RG Steel Wheeling, LLC (“Wheeling”) in the amount of \$128,539 (collectively, the “Mutual Prepetition Setoff Claims”).

12. In addition to the pre-Petition Claims described above, WCP proposes to set off the postpetition claim of Warren in the amount of \$27,757 against the postpetition claim of WCP in the amount of \$64,329 (the “Mutual Postpetition Setoff Claims” and together with the Mutual Prepetition Setoff Claims, the “Mutual Setoff Claims”).

13. Finally, in the course of doing business with the Debtors, certain Samuel Entities, as distributors of steel, purchased steel from certain Debtor Entities and then re-sold or held for re-sale the steel. Based on historic rates of product returns and quality complaints on steel purchased from the Debtors for re-sale to third parties, Samuel anticipates that it may receive such returns and complaints from third party customers on approximately two percent (2%) of such purchases (collectively, “Quality Claims”). Accordingly, Samuel seeks authority to hold back two percent (2%) of certain invoiced amounts, which represent a total amount of \$15,234 being a holdback by WCP from Warren of \$6,357 and by Samuel Steel Pickling from Warren of \$8,877 (the “Quality Claims Hold Back”), to allow its customers an opportunity to file claims with respect to the purchased steel. If no Quality Claims are made with respect to the steel at issue by October 31, 2012, then the respective Samuel Entities will release the Quality Claims Hold Back to the appropriate Debtor Entities.

14. Samuel has the underlying invoices for the amounts relevant to this Motion. Upon information and belief, such invoices are also in the possession of the Debtors. Due to the voluminous nature of the invoices they are not attached here but are available upon reasonable request by parties in interest. In addition, substantially contemporaneous with the

filing of this Motion, Samuel has filed proofs of claim for each of the Mutual Prepetition Setoff Claims in the Debtors' cases with addenda and schedules of invoices.

RELIEF REQUESTED

15. Samuel moves pursuant to sections 105(a), 362(d)(1) and 553(a) of the Bankruptcy Code for entry of an order, substantially in the form attached hereto as Exhibit A, granting relief from the automatic stay to allow Samuel to set off the Mutual Setoff Claims to the fullest extent permitted under applicable law.

BASIS FOR RELIEF REQUESTED

A. Samuel Has Setoff Rights Under Common Law.

16. The right of setoff is of equitable origin, and has long been recognized as a right under the common laws of every state. *See Studley v. Boyleston Nat'l Bank of Boston*, 229 U.S. 523, 528 (1913). This right is rooted in the idea that “allow[ing] entities that owe each other money to apply their mutual debts against each other ... avoid[s] the absurdity of making A pay B when B owes A.” *In re Semcrude, L.P.*, 399 B.R. 388, 393 (Bankr. D. Del. 2009) (internal citations omitted). *See also Citizens Bank of Maryland v. Strumpf*, 516 U.S. 16, 18 (1995) (same). Moreover, setoff “is not dependent on the parties’ contracts; rather, [it is an] equitable remed[y] available independent of any contractual remedy.” *CDI Trust v. U.S. Elec., Inc. (In re Commc’n. Dynamics, Inc.)*, 382 B.R. 219, 226 (Bankr. D. Del. 2008).

17. Pursuant to applicable state common law, Samuel has a right to set off the Mutual Setoff Claims, which represent liabilities to the Samuel Entities incurred by the Debtor Entities against liabilities to the Debtor Entities incurred by the Samuel Entities for the same period.

B. Samuel is Entitled to Exercise Its Right of Setoff Pursuant to Section 553(a) of the Bankruptcy Code.

18. Section 553(a) of the Bankruptcy Code preserves any rights of setoff that may exist between a creditor and a debtor. *See Citizens Bank of Maryland v. Strumpf*, 516 U.S. 16, 20 (1995) (As a general rule, “any right of setoff that a creditor possessed prior to the debtor’s filing for bankruptcy is not affected by the Bankruptcy Code”); *Lawndale Steel Co. v. Magic Steel Co.*, 155 B.R. 990, 992 (Bankr. N.D. Ill 1993) (“A creditor with the pre-petition right of setoff does not lose its rights by failing to setoff before a bankruptcy petition has been filed.”); *In re Bennett Funding Group*, 146 F.3d 136, 139 (2d Cir. 1998) (noting that the right of setoff extends to bankruptcy and bankruptcy courts have long required compelling circumstances to overcome enforcement of such right).

19. The right of setoff will be recognized in a bankruptcy proceeding, if four conditions are met: (1) the creditor holds a claim against the debtor that arose prepetition; (2) the creditor owes a debt to the debtor that also arose prepetition; (3) the claim and the debt are mutual; and (4) both the claim and the debt are each valid and enforceable. *See* 11 U.S.C. §553(a); *see also In re Garden Ridge Corp.*, 338 B.R. 627, 633 (Bankr. D. Del. 2006); *In re Pardo v. Pacificare of Tex., Inc. (In re APF Co.)*, 264 B.R. 344, 354 (Bankr. D. Del 2001).

20. Setoff is a permissive right and “lies within the equitable discretion of the bankruptcy court.” *In re Martinez*, 2007 U.S. Dist. LEXIS 6163, *6 (M.D. Pa. 2007) (citing *United States on behalf of IRS v. Norton*, 717 F.2d 767, 772 (3d Cir. 1982)); *see also Szymanski v. Wachovia Bank, N.A. (In re Szymanski)*, 413 B.R. 232, 243 (Bankr. D. Pa. 2009) (noting that courts have disallowed valid rights to setoff only in the most “compelling circumstances”) (*citing In re Whimsy, Inc.*, 221 B.R. 69, 74 (S.D.N.Y. 1998)). However, setoffs in bankruptcy are generally favored and a presumption in favor of their enforcement exists. *See Kentucky Cent. Ins. Co. v. Brown (In re Larbar Corp.)*, 177 F.3d 439, 447 (6th Cir. 1999); *In re De Laurentiis*

Entm't Group Inc., 963 F.2d 1269, 1277 (9th Cir. 1992); *see also Junio v. Astoria Fed. Savs.*, 2002 U.S. Dist. LEXIS 25735, *24 (E.D.N.Y. 2002) (“Congress has acknowledged the “special status” historically accorded to the right of setoff, and the text of § 553 and the Code’s legislative history suggest continued deference to the right of setoff.”); *Bennett Funding Group*, 146 F.3d at 139 (“Cases under the prior Bankruptcy Act required “compelling circumstances” to disregard state sanctioned setoff rights ... injunction against a setoff is “strong medicine.””) (internal citations omitted).

i. Samuel and the Debtors Hold Pre- and Post-Petition Claims Against Each Other.

21. As set forth more fully in the Background section hereof, before and after the Petition Date, the Samuel Entities provided goods and services to the Debtor Entities for which the Debtor Entities owed the Samuel Entities for purposes of this Motion a total aggregate amount of \$640,310. At the same time, the Samuel Entities incurred a liability to the Debtors for the purposes of this Motion in the aggregate amount of \$2,404,459. More specifically, the Mutual Setoff Claims are by and against the same respective Samuel Entities and Debtor Entities.

ii. The Obligations of Samuel and the Debtors Are Mutual.

22. The Mutual Prepetition Setoff Claims must be “mutual” for Section 553 of the Bankruptcy Code to apply. 11 U.S.C. § 553. Courts have found that mutuality exists as long as the claim and debt are between the same parties, and the parties are acting in the same capacity. *See In re Semcrude, L.P.*, 399 B.R. 388, 396 (Bankr. D. Del. 2009) *aff'd* 2010 U.S. Dist. LEXIS 42477 (D. Del. Apr. 30, 2010); *Szymanski v. Wachovia Bank, N.A. (In re Szymanski)*, 413 B.R. 232, 242 (Bankr. E.D. Pa. 2009); *In re Ne. Enters.*, 318 B.R. 625, 627 (Bankr. E. D. Pa. 2005). To meet the capacity requirement, the parties must each owe the other something in his or her own name, and not as a fiduciary. *In re Nuclear Imaging Sys., Inc.*, 260

B.R. 724, 735 (Bankr. E. D. Pa. 2000); *see also Semcrude, L.P.*, 399 B.R. at 396 (“each party must own his claim in his own right severally, with the right to collect in his own name against the debtor in his own right and severally.”) (internal quotations and citations omitted); *see also In re Garden Ridge Corp.*, 338 B.R. 627, 633 (Bankr. D. Del. 2006) (same). Furthermore, mutuality will exist even though the obligations to be set off did not arise out of the same transaction “since the test is mutuality, not similarity, of obligation.” *In re Elsinore Shore Assocs.*, 67 B.R. 926, 936 (Bankr. D. N.J. 1986) (depository bank was permitted to set off its claim against the debtor for reimbursement under open letters of credit against amounts held in the debtor’s general account at the bank).

23. As more fully described in the Background section hereof, the Samuel Entities did business and incurred countervailing and mutual liabilities with the Debtor Entities. The Mutual Prepetition Setoff Claims consist of the pre-Petition claims of: (i) Warren in the amount of \$21,712 against the pre-Petition claims of WCP in the amount of \$71,205; (ii) Samuel Steel Pickling in the amount of \$364,298 against the pre-Petition claims of Warren in the amount of \$769,597; and (iii) WCP in the amount of \$90,481 against the pre-Petition claims of Wheeling in the amount of \$128,539.

24. The Mutual Postpetition Setoff Claims are also mutual, consisting of the post-Petition claims of Warren against WCP in the amount of \$27,757 and the post-Petition claims of WCP against Warren in the amount of \$64,329

25. Samuel seeks relief here only with respect to the Mutual Setoff Claims, i.e., those specific countervailing and mutual liabilities of the respective Samuel Entities and Debtor Entities for which there is clear mutuality.

iii. The Obligations of Samuel and Debtors are Valid and Enforceable.

26. The Mutual Setoff Claims between the Samuel Entities and the Debtor Entities must constitute valid and enforceable obligations under applicable nonbankruptcy law in order for section 553 of the Bankruptcy Code to apply. 11 U.S.C. § 553(a)(1).

27. Samuel has provided all goods and services for which it has invoiced the Debtor Entities and that give rise to the Debtors' Total Liabilities. On information and belief, Samuel believes that the Debtor Entities have provided steel and other goods and services and are entitled to other credits as reflected in the invoices that give rise to the Samuel's Total Liabilities. The Debtor Entities have not contested any of the Mutual Setoff Claim amounts owing to Samuel Entities and, subject to the Quality Claims Hold Back, Samuel Entities have not contested any Mutual Setoff Claim amounts owing to the Debtor Entities.⁴ Thus, the Mutual Setoff Claims are valid and enforceable.

C. Relief from the Automatic Stay Should be Granted to Permit Samuel to Exercise its Valid Right of Setoff.

28. Pursuant to section 362(d)(1) of the Bankruptcy Code, a party with an interest in property of the estate may request relief from the stay "for cause." 11 U.S.C. § 362(d)(1). The existence of the right of setoff alone constitutes "cause" sufficient to grant relief from the automatic stay to permit the setoff of mutual claims and debts. *See In re Nuclear Imaging Sys. Inc.*, 260 B.R. at 730 ("[c]ourts have generally concluded that the existence of mutual obligations subject to set-off constitute sufficient 'cause' to meet the creditor's initial evidentiary burden in seeking relief from the automatic stay"). A creditor can establish a prima facie showing of "cause" under section 362(d)(1) simply by demonstrating its right to setoff. *See Szymanski*, 413 B.R. at 243 ("[c]ourts generally recognize that, by establishing a right of setoff,

the creditor has established a prima facie showing of ‘cause’ for relief from the automatic stay[.]” (citing *In re Ealy*, 392 B.R. 408, 414 (Bankr. E.D. Ark. 2008)); see also *In re Whitaker*, 173 B.R. 359, 361 (Bankr. S.D. Ohio 1994); *United States v. Parrish (In re Parrish)*, 75 B.R. 14, 16 (N.D. Tex. 1987) (reversing the denial of motion to lift stay where the creditor had established right to set off).

29. Courts have broad discretion to lift the stay and should “balance potential prejudice to the bankruptcy debtor’s estate against the hardships that will be incurred by the person seeking relief from the automatic stay if the relief is denied.” *Robbins v. Robbins (In re Robbins)*, 964 F.2d 342, 345 (4th Cir. 1992). Granting the Motion will not prejudice the Debtors, as it will simply require the Debtors to offset the valid debt the respective Debtor Entities already owe to the respective Samuel Entities against the debt the respective Samuel Entities owe to the respective Debtor Entities. Therefore, having established that the Samuel Entities have a common law right of setoff enforceable in these cases under section 553(a) of the Bankruptcy Code, “cause” exists to grant relief from the automatic stay under section 362(d)(1) for purposes of exercising such right. Further, to the extent that section 553 of the Bankruptcy Code is not applicable to post-Petition Date setoffs, Samuel respectfully requests that this Court exercise its equitable and statutory authority to lift the automatic stay to allow WCP to exercise its state law rights of setoff with respect to the Mutual Postpetition Setoff Claims.

RESERVATION OF RIGHTS

30. Samuel expressly reserves the right to amend or supplement this Motion prior to or in connection with any hearing before the Court with respect to the relief requested herein.

⁴ Provided, however, that Samuel does reserve all of its rights should the Debtors contest any amounts owing to Samuel or if Samuel should after the date hereof learn of facts for contesting amounts owing to the Debtors.

NO PRIOR REQUEST

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

COMPLIANCE WITH LOCAL RULE 4001-1

32. In accordance with Rule 4001-1(a) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), this Motion and a notice hereof is being served upon (a) counsel for the Debtors, (b) counsel for the Official Committee of Unsecured Creditors, (c) the Office of the United States Trustee, and (d) all parties that have requested notice in these chapter 11 cases pursuant to Rule 2002 of the Bankruptcy Rules.

33. With respect to the requirements, set forth in Rule 4001-1 of the Local Rules, that any motion or other request for relief from stay be accompanied by an affidavit and supporting exhibits containing the data set forth in Rule 4001-1(c), Samuel respectfully requests that such requirements be deemed satisfied by the contents of the Motion and contemporaneous filed proofs of claim or otherwise waived.

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CONCLUSION

WHEREFORE, Samuel respectfully requests entry of an order, substantially in the form annexed hereto as Exhibit A, (i) granting the relief requested herein and (ii) granting Samuel such further relief as is just and proper.

Dated: September 21, 2012
Wilmington, Delaware

Respectfully submitted,

/s/ Christopher M. Winter

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Counsel to Samuel, Son & Company, Limited and certain of its affiliates

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
: Chapter 11
In re: :
: Case No. 12-11661 (KJC)
WP STEEL VENTURE LLC, et al.¹, : Jointly Administered
: Debtors. :
: RE D.I. ____
----- X

**ORDER GRANTING MOTION OF SAMUEL, SON & CO., LIMITED
AND ITS AFFILIATES FOR ENTRY OF AN ORDER GRANTING (A) RELIEF FROM
STAY TO PERMIT SETOFF OF MUTUAL LIABILITIES;
AND (B) RELATED RELIEF**

Upon the Motion of Samuel, Son & Co., Limited and certain of its affiliates (collectively, “Samuel”), for Entry of an Order granting (A) Relief From Stay to Permit Setoff of Mutual Liabilities; and (B) Related Relief (the “Motion”),² by which certain Samuel entities seek to exercise rights to setoff mutual debts by and between such Samuel Entities and Debtor Entities (as set forth in the Motion and herein); and this Court having reviewed, and held a hearing with respect to, the Motion; and the Court having found that the legal and factual basis set forth in the Motion establish good cause for granting the Motion; and it appearing that the Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and that this matter is a core matter pursuant to 28 U.S.C. § 157(b)(2); and it appearing that notice was reasonable under the circumstances and that no further notice need be given;

¹ The Debtors are (i) WP Steel Venture LLC; (ii) Metal Centers LLC; (iii) RG Steel, LLC; (iv) RG Steel Railroad Holding, LLC; (v) RG Steel Sparrows Point, LLC; (vi) RG Steel Warren, LLC; (vii) RG Steel Wheeling, LLC; and (viii) RG Steel Wheeling Steel Group, LLC.

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

IT IS HEREBY:

ORDERED that the Motion is GRANTED in its entirety; and it is further

ORDERED that pursuant to section 362(d) of the Bankruptcy Code, the Samuel Entities are hereby granted relief from the automatic stay in order to exercise the right of setoff under applicable law with respect to the Mutual Setoff Claims; and it is further

ORDERED that all other claims and rights of the Samuel Entities are hereby preserved; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the requirement set forth in Rule 4001-1 of the Local Bankruptcy Rules for the District of Delaware that any motion or other request for relief from stay be accompanied by an affidavit and supporting exhibits containing the data set forth in Rule 4001-1(c) is hereby deemed satisfied by the contents of the Motion and contemporaneous filed proofs of claim or otherwise waived; and it is further

ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: October _____, 2012.

Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
: :
: : Case No. 12-11661 (KJC)
WP STEEL VENTURE LLC, et al.¹, : : Jointly Administered
: :
Debtors. : : **Hearing Date: October 17, 2012 at 2:00 p.m.**
: : **Objection Deadline: October 5, 2012 at 4:00 p.m.**
----- X

**NOTICE OF MOTION OF SAMUEL, SON & CO., LIMITED AND ITS
AFFILIATES FOR ENTRY OF AN ORDER GRANTING
(A) RELIEF FROM STAY TO PERMIT SETOFF OF
MUTUAL LIABILITIES; AND (B) RELATED RELIEF**

Samuel, Son & Co., Limited and certain of its affiliates (“Samuel”) have filed the *Motion of Samuel, Son & Co., Limited and its Affiliates for Entry of an Order Granting (A) Relief From Stay to Permit Setoff of Mutual Liabilities; and (B) Related Relief* which seeks relief from the automatic stay imposed by § 362 of the Bankruptcy Code in order to permit the setoff of mutual debts by and between Samuel and certain of the above-captioned debtors.

HEARING ON THE MOTION WILL BE HELD ON October 17, 2012 at 2:00 p.m.

You are required to file a response (and the supporting documentation required by Local Rule 4001-1(d)) to the attached motion on or before October 5, 2012.

At the same time, you must also serve a copy of the response upon movant’s attorneys:

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(302) 657-4900

-and-

¹ The Debtors are (i) WP Steel Venture LLC; (ii) Metal Centers LLC; (iii) RG Steel, LLC; (iv) RG Steel Railroad Holding, LLC; (v) RG Steel Sparrows Point, LLC; (vi) RG Steel Warren, LLC; (vii) RG Steel Wheeling, LLC; and (viii) RG Steel Wheeling Steel Group, LLC.

Michael J. Lombardo
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The hearing date specified above may be a preliminary hearing or may be consolidated with the final hearing, as determined by the Court.

The attorneys for the parties shall confer with respect to the issues raised by the motion in advance for the purpose of determining whether a consent judgment may be entered and/or for the purpose of stipulating to relevant facts.

Dated: September 21, 2012
Wilmington, Delaware

Respectfully submitted,

/s/ Christopher M. Winter

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Counsel to Samuel, Son & Company, Limited and certain of its affiliates

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

----- X
In re: : Chapter 11
: :
: : Case No. 12-11661 (KJC)
WP STEEL VENTURE LLC, et al.¹, : Jointly Administered
: :
Debtors. :
: :
-----X

CERTIFICATE OF SERVICE

I, Christopher M. Winter, hereby certify that I am not less than 18 years of age, and that I caused a true and correct copy of the following to be served on September 21, 2012 upon the persons named on the attached service via first class mail, postage prepaid:

**MOTION OF SAMUEL, SON & CO., LIMITED AND ITS AFFILIATES
FOR ENTRY OF AN ORDER GRANTING (A) RELIEF FROM STAY TO PERMIT
SETOFF OF MUTUAL LIABILITIES; AND (B) RELATED RELIEF**

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: September 21, 2012
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