

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ENTERED ON DOCKET

MAR 23 2005

IN RE:

|| CASE NO. 02-83002

Project Time & Cost, Inc.,

CHAPTER 11

Debtor.

JUDGE MASSEY

||

ORDER GRANTING IN PART MOTION TO REOPEN CASE

Alacrity, Inc. moves for an order reopening this case for the purpose of filing "pleadings under seal" to clarify whether the Stipulated Order (I) Appointing GAB Robins North America, Inc. as Estate Representative under 11 U.S.C. Section 1123(b)(3)(B); (II) Regarding Prosecution of Claims by Estate Representative; and (III) Tolling Limitations Periods as to Claims Against Alacrity Services, LLC and Stanton F. Long entered on November 3, 2004, applies to a transaction pursuant to which Alacrity's management proposes to purchase the equity interest of Greenwich Street Partners in Alacrity. Presumably, the operative paragraph of the Stipulated Order is paragraph 6d, which provides:

d. Pending the outcome of litigation being pursued by the Claims Representative against GSC Partners and its affiliates other than Alacrity, Alacrity will not sell, transfer or otherwise encumber all or substantially all of its assets without first providing to GAB Robins sixty (60) days advance written notice of the sale, transfer or other encumbrance, which notice shall include documents sufficient to identify the terms of the sale, transfer or other encumbrance and the parties thereto. Alacrity stipulates and agrees that this Court shall have jurisdiction to hear any disputes concerning any such sale, transfer or other encumbrance and waives any objection to this Court's jurisdiction or venue as to such matters.

The answer seems obvious.

Alacrity asks for an expedited hearing on the motion it says it will file in an effort to close the transaction, which it alleges is critical to its existence. Section 107 of the Bankruptcy Code provides:

(a) Except as provided in subsection (b) of this section, a paper filed in a case under this title and the dockets of a bankruptcy court are public records and open to examination by an entity at reasonable times without charge.

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may—

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

This section plainly favors public access to public records in the absence of a showing that placing a document under seal is necessary to protect an entity in connection with a bankruptcy case.

Here, Alacrity is asking for extraordinary relief in the form of sealing pleadings as well as

evidence that might be submitted in connection with a dispute raised by those pleadings. The

Court will not grant a motion to seal pleadings based on the skimpy allegations in the motion to

reopen. Alacrity did not provide to the Court a copy of its proposed motion. The Court does not

grant expedited hearings on unfiled motions. Already Greenwich has filed a response in support

of the motion, giving more information about the proposed transaction than Alacrity's motion.

Indeed, if Alacrity had filed Greenwich's response, labeled it a motion in which it sought

clarification of the Stipulated Order and gave good reasons for sealing documents related to the

proposed transaction, the Court would have scheduled an expedited hearing on the motion. *See In*

re Hemple, 295 B.R. 200 (Bankr. D.Vt. 2003); *In re Farmland Industries, Inc.*, 290 B.R. 364

(Bankr. W.D. Mo. 2003). If it turned out to be unnecessary to file confidential documents, the issue of sealing it would evaporate.

Accordingly, it is

ORDERED that Alacrity's motions to reopen this case is GRANTED.

Dated: March 21, 2005.



JAMES E. MASSEY
U.S. BANKRUPTCY JUDGE