

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re)	Chapter 11
)	
SENCORP, <u>et al.</u> , ¹)	Case No. 09-12869 (JVA)
)	(Joint Administration Requested)
)	
Debtors.)	Honorable J. Vincent Aug, Jr.
)	

**MOTION OF THE DEBTORS FOR AN ORDER WAIVING COMPLIANCE WITH
LOCAL BANKRUPTCY RULE 9013-2 IN CONNECTION WITH CERTAIN FIRST
DAY MOTIONS AND APPLICATIONS**

(“MOTION TO WAIVE LOCAL RULE 9013-2”)

The above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”), hereby move this Court (the “**Motion**”) for entry of an order (the “**Order**”), in substantially the form attached hereto as Exhibit A, waiving compliance with Local Bankruptcy Rule 9013-2 (“**LBR 9013-2**”) in connection with certain first day motions and applications (the “**First Day Pleadings**”) including: (a) a waiver of the twenty page limit and requirement of a table of contents and summary thereto set forth in LBR 9013-2(a) and (b) a waiver of LBR 9013(b); thereby permitting the Debtors to cite unreported opinions (the “**Unreported Orders**”) in the First Day Pleadings.² In support of this Motion, the Debtors respectfully state:

¹ The Debtors in these Chapter 11 cases are: SENCORP, Senco Products, Inc., Senco Export, Inc., SenSource Global Sourcing, LLC, TyRex, LLC, Global Fastening Solutions, LLC, Agrifast, LLC, Nexicor, LLC, Omnifast, LLC, S C FINANCIAL, INC., Senco International, Inc., Sentron Medical, Inc., and Gregg Laboratories, Inc.

² The facts and circumstances supporting this Motion are set forth in the Affidavit of David T. Fyffe, Vice President-Corporate Financial Operations and Treasurer of SENCORP, in Support of First Day Motions (the “**First Day Affidavit**”), filed contemporaneously herewith.

JURISDICTION

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are section 105(a) of Title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the “**Bankruptcy Code**”) and LBR 9013-2.

BACKGROUND

3. The Debtors commenced these above-captioned cases (the “**Chapter 11 Cases**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code on May 8, 2009 (the “**Petition Date**”). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are operating their businesses and managing their affairs as debtors-in-possession. As of the date hereof, no creditors’ committee, trustee or examiner has been appointed in any of these Chapter 11 Cases.

4. The Debtors are a group of privately-held companies that collectively constitute a leading designer, manufacturer and distributor of branded pneumatic and battery powered staplers, nailers and screw systems and collated staples, nails and screws. The Debtors’ brand names are well-known in the industry for quality, reliability and service. The Debtors sell to a diversified customer base, including pro trades, industrial, consumer, international and commercial customer segments. Certain aspects of the Debtors’ businesses, including the SENCO name, have existed for over 50 years. As further evidence of the Debtors’ long-term success, most of the Debtors’ top ten customers have purchase products from the Debtors for more than 20 years.

5. Despite the Debtors' historical strength, the Debtors have not been immune to the recent widespread economic downturn. Over the past several years, the Debtors' sales volume and profitability have been negatively impacted by several economic factors, including (a) the sharp rise in the price of steel rod (the Debtors' primary raw material) to historic levels in 2008, (b) a severe decline in residential and commercial construction (the Debtors' primary customer segments) and (c) the deteriorating economic conditions leading to the current recession.

6. In response to these economic challenges, the Debtors implemented several critical initiatives in 2008 and early 2009. Among other things, the Debtors have implemented significant workforce reductions, as well as significant pay reductions for all of the Debtors' remaining employees, including senior management. The Debtors have also consolidated domestic manufacturing operations from two facilities to one, and have closed three of their six distribution centers. The Debtors have also implemented several moves designed to increase efficiency in inventory, supply and international operations.

7. Despite these efforts, it has recently become clear that the Debtors do not have sufficient liquidity to survive the current economic downturn in their current state. As a result, the Debtors engaged Mesirow Financial, Inc. ("Mesirow") on March 9, 2009 to serve as investment bankers for the Debtors to assist the Debtors in exploring possible sale transactions. Mesirow contacted over 100 financial and strategic parties, and after an intense, expedited marketing period the Debtors determined that the highest and best offer presently available to the Debtors was an offer from Wynnchurch Capital, Ltd. ("Wynnchurch") to serve as a stalking horse bidder in a sale of substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code.

8. On April 10, 2009, the Debtors executed a Letter of Intent (the “**LOI**”) with Wynnchurch representing Wynnchurch’s stalking horse bid for substantially all of the Debtors’ assets. Thereafter, on May 7, 2009, the Debtors entered into a binding asset purchase agreement (the “**APA**”) with Wynnchurch and Wynnchurch’s affiliate Senco Holdings, Inc. for the purchase of substantially all of the Debtors’ assets for \$41 million in cash, plus the assumption of certain liabilities. The APA requires the Debtors, among other things, to commence these Chapter 11 Cases by May 11, 2009, obtain by May 28, 2009 an order from this Court approving bidding procedures for the sale of the Debtors’ assets, and to obtain an order from this Court by July 7, 2009 approving the sale of substantially all of the Debtors’ assets to Wynnchurch (or its affiliates) or such other successful bidder as may be selected at the auction in accordance with the bidding procedures. The Debtors are proceeding with a proposed sale process on those timelines.

9. Subject to the approval of this Court, the Debtors have obtained a proposed debtor-in-possession financing facility (the “**DIP Facility**”) from the Debtors’ prepetition secured lenders, led by Bank of America, NA, as administrative agent (the “**DIP Agent**”) and as a lender, which the Debtors believe will provide the Debtors with sufficient liquidity through the above-described sale process.

RELIEF REQUESTED

10. Contemporaneously with the filing of this Motion, the Debtors have also filed certain First Day Pleadings. The Debtors respectfully submit that both as to law and fact, the Debtors would be unable to fully set forth, in sufficient detail, the basis for the relief requested in many of the First Day Pleadings within the twenty page limitation established by LBR 9013-2(a). In this instance, limiting the length of the First Day Pleadings to fall within the twenty page limitation would require that the Debtors exclude relevant material

information needed to fully set forth the relief requested and provide this Court with adequate detail to adjudicate these matters at this early stage.

11. In light of the above, the Debtors respectfully request that this Court grant the Debtors leave to file the First Day Pleadings in excess of the twenty page limit set forth in LBR 9013-2(a) and waive the requirement for the filing of table of contents and summaries thereto.

12. Further, LBR 9013-2(b) requires a party citing an Unreported Order in a pleading filed with this Court to attach a copy of the Unreported Order to the pleading.

13. Many of the First Day Pleadings may cite to Unreported Orders. These Unreported Orders support well-established propositions of law and are adequately described in the First Day Pleadings. Accordingly, in lieu of complying with LBR 9013-2(b), the Debtors propose to make any Unreported Orders cited in the First Day Pleadings available to this Court and any party in interest upon request to their undersigned counsel. Under the circumstances of the urgency of the matters surrounding the First Day Pleadings, the Debtors respectfully submit that this relief is appropriate under the circumstances.

NOTICE

14. No trustee, examiner or creditors' committee has been appointed in the Chapter 11 Cases. The Debtors have provided notice of this Motion to: (i) the Office of the United States Trustee for the Southern District of Ohio; (ii) counsel to the administrative agent for the Debtors' prepetition lenders; (iii) counsel to the administrative agent for the Debtors' proposed debtor-in-possession lenders; (iv) counsel to Wynnchurch; (v) the creditors listed on the Debtors' consolidated list of thirty largest unsecured creditors, as filed with the chapter 11 petitions; (vi) all parties asserting a security interest in the assets of the Debtors to the extent reasonably known to the Debtors; and (vii) any governmental unit listed in LBR 5003-1(d). In light of the nature of

the relief requested, the Debtors submit that no further notice is required or needed under the circumstances. **Please take notice that the Debtors have filed a Motion for an Expedited Hearing to consider First Day Motions and Applications, including the foregoing. The Debtors shall serve notice of the objection deadline and expedited hearing date pursuant to further order(s) of this Court.**

NO PRIOR REQUEST

15. No prior motion for the relief requested herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request that this Court enter the Order, substantially in the form attached hereto as Exhibit A, (a) waiving the requirements of LBR 9013-2 as to the First Day Pleadings, and (b) granting such other and further relief as this Court deems appropriate.

Dated: May 8, 2009
Cincinnati, OH

Respectfully submitted,

LATHAM & WATKINS LLP

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- and -

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**PROPOSED ATTORNEYS FOR DEBTORS
AND DEBTORS-IN-POSSESSION**

EXHIBIT A

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:)	Chapter 11
)	
SENCORP , <u>et al.</u>)	Case No. 09-12869 (JVA)
)	
Debtors.)	Jointly Administered
)	

**ORDER GRANTING MOTION OF DEBTORS FOR AN ORDER WAIVING
COMPLIANCE WITH LOCAL BANKRUPTCY RULE 9013-2(b) IN CONNECTION
WITH FIRST DAY MOTIONS**

Upon consideration of the motion (the “**Motion**”)¹ of the Debtors² for entry of an order waiving compliance with Local Bankruptcy Rule 9013-2 in connection with the First Day Pleadings including: (a) a waiver of the twenty page limit and requirement of a table of contents

¹ Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Motion.

² The Debtors in these Chapter 11 proceedings are: SENCORP, Senco Products, Inc., Senco Export, Inc., SenSource Global Sourcing, LLC, TyRex, LLC, Global Fastening Solutions, LLC, Agrifast, LLC, Nexicor, LLC, Omnifast, LLC, S C FINANCIAL, INC., Senco International, Inc., Sentron Medical, Inc., and Gregg Laboratories, Inc.

and summary thereto set forth in Local Bankruptcy Rule 9013-2(a) and (b) a waiver of Local Bankruptcy Rule 9013-2(b), thereby permitting the Debtors to cite Unreported Orders in the First Day Pleadings; and it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Motion is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Motion and opportunity for objection having been given, with no objections or requests for hearing having been filed, or all objections having been overruled, as the case may be; and it appearing that no other notice need be given; and after due deliberation and sufficient cause therefore, it is hereby:

1. ORDERED that the Motion is GRANTED in its entirety.
2. ORDERED that the requirements of Local Bankruptcy Rule 9013-2 shall be and hereby are waived as to any and all of the First Day Pleadings.
3. ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

SO ORDERED.

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