

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673
Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675
Chapter 11 Case

Debtor.

**NOTICE OF HEARING AND JOINT MOTION FOR (I) EXPEDITED RELIEF
AND (II) ORDER AUTHORIZING THE DEBTORS TO FILE
CERTAIN DOCUMENTS UNDER SEAL**

TO: The entities specified in Local Rule 9013-3.

1. The above-captioned debtors and debtors in possession (together, the "Debtors") hereby move this Court for the relief requested below and give notice of hearing.

2. The Court will hold a hearing on this motion at **1:30 p.m.** on **March 14, 2017**, in Courtroom 8 West, of the United States Courthouse at 300 South Fourth Street, Minnesota.

3. Local Rule 9006-1(c) provides deadlines for responses to this motion. However, given the expedited nature of the relief sought, the Debtors do not object to written responses being served and filed two hours prior to the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 1070-1. 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. The petitions commencing these chapter 11 cases were filed on March 10, 2017 (the “Filing Date”). The cases are currently pending before this Court.

5. This motion arises under 11 U.S.C. §§ 105(a) and 105(b), Bankruptcy Rules 9006 and 9018, and Local Rule 9013-2(g). The Debtors request that the Court grant expedited relief and enter an order authorizing certain documents under seal.

BACKGROUND

6. On the Filing Date, the Debtors filed voluntary petitions for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Debtors’ chapter 11 cases. No creditors’ or other official committee has yet been appointed pursuant to section 1102 of the Bankruptcy Code. Further general background information about the Debtors and this case is set forth in the Declaration of Timothy G. Becker in Support of Chapter 11 Petitions and Initial Motions.

7. In conjunction with this motion, the Debtors have filed the Joint Motion for Order (I) Granting Expedited Relief and (II) Approving Key Employee Retention Plan and Key Employee Incentive Plan (the “KERP/KEIP Motion”). The KERP/KEIP Motion seeks the Court’s approval of the Debtors’ proposed key employee retention plan (the “KERP”) and the

key employee incentive plan (the “KEIP”). Further detail regarding the KERP and the KEIP and the necessity for the Court’s approval of them is provided in the KERP/KEIP Motion.

8. The Debtors attached the KERP and the KEIP to the KERP/KEIP Motion. Both the KERP and the KEIP would normally include exhibits containing the personal information (names, positions, and salaries) of the Debtors’ employees (the “Personal Information Exhibits”) that would participate in the respective plans.

9. The Debtors believe that the Debtors’ employees’ personal information must remain confidential. Consequently, the Debtors replaced the Personal Information Exhibits with placeholders in the KERP and KEIP filed with the KERP/KEIP Motion and the Debtors filed this motion seeking authority to file the Personal Information Exhibits under seal.

RELIEF REQUESTED AND BASIS FOR RELIEF

10. Pursuant to 11 U.S.C. § 107(b), a bankruptcy court must protect entities from potential harm that may result from the disclosure of certain confidential information. Bankruptcy Rule 9018 provides that “[o]n motion, or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information. . . .” Fed. R. Bankr. P. 9018. By this motion, the Debtors seek entry of an order authorizing the Debtors to file the Personal Information Exhibits under seal because they include the confidential information that, if disclosed, would harm the Debtors’ business and are not necessary for any party in interest to properly evaluate whether or not to support the KERP/KEIP Motion.

11. The Debtors also request expedited relief on this motion pursuant to Bankruptcy Rule 9006(c). The Debtors’ KERP/KEIP Motion has also been filed on an expedited basis and is

set for hearing on March 20, 2017. Thus, it is necessary for the Debtors to receive authorization to file the Personal Information Exhibits under seal in connection with the KERP/KEIP Motion prior to the hearing.

12. Local Rule 9013-2(g) sets forth the procedure for filing a motion to file documents under seal and for submitting the documents sought to be protected. The Debtors have followed these procedures and have filed the Personal Information Exhibits to the inbox.

13. Pursuant to Local Rule 9013-2(a), this verified motion is accompanied by a memorandum of law, a proposed order, and proof service.

14. Pursuant to Local Rule 9013-2(c), the Debtors give notice that they may, if necessary, call one or more of the following to testify regarding the facts set forth in this Motion: (a) Timothy G. Becker, the Executive Vice President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, whose business address is 900 Long Lake Road, Suite 180, New Brighton, Minnesota 55112; (b) James A. Bartholomew, the President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, whose business address is 900 Long Lake Road, Suite 180, New Brighton, Minnesota 55112; or (c) Eric R. Jacobsen, the Chief Administrative Officer and Chief Legal Officer for Gander Mountain Company and the Director and Secretary of Overton's, Inc., whose business address is 180 East Fifth Street, Suite 1300, St. Paul, Minnesota 55101.

WHEREFORE, the Debtors move the Court for an order:

A. Authorizing the Debtors to file the Personal Information Exhibits under seal, subject to further order of the Court.

B. Requiring that, except upon further order of the Court after notice to the Debtors, the Personal Information Exhibits shall remain under seal, and shall not be made available to

anyone without the express consent of the Debtors, except that copies of the Personal Information Exhibits may be provided to (i) the Court, (ii) counsel for the United States Trustee on a confidential basis, (iii) the advisors to the Official Committee of Unsecured Creditors, if any, appointed in the Debtors' cases on a confidential basis and on a "professionals' eyes only" basis, (iv) the Debtors' prepetition and postpetition secured lenders and their counsel, and (v) others upon further Court order.

C. Prohibiting the United States Trustee from disclosing the information contained in the Personal Information Exhibits pursuant to 11 U.S.C. § 107(c)(3)(B).

D. Requiring the Debtors and any party authorized to receive copies of the Personal Information Exhibits to (i) redact specific reference to the Personal Information Exhibits set forth therein from any and all pleadings filed on the public docket maintained in these chapter 11 cases; (ii) not use or refer to any of the Personal Information Exhibits in any hearing unless the courtroom has been properly sealed and restricted to the parties who have received the Personal Information pursuant to this Order; and (iii) file any transcript of any hearing in which Personal Information Exhibits are used under seal.

E. Permitting any party in interest to seek to declassify and make public any portion of the material filed under seal.

F. Authorizing the Debtors to take all actions necessary to effectuate the relief granted in the order for the relief requested in the motion.

Dated: March 10, 2017

/e/ Steven R. Kinsella

Clinton E. Cutler (#0158094)

Cynthia A. Moyer (#0211229)

Ryan T. Murphy (#0311972)

James C. Brand (#387362)

Sarah M. Olson (#0390238)

Steven R. Kinsella (#0392289)

FREDRIKSON & BYRON, P.A.

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402-1425

Telephone: 612.492.7000

ccutler@fredlaw.com

cmoyer@fredlaw.com

rmurphy@fredlaw.com

jbrand@fredlaw.com

solson@fredlaw.com

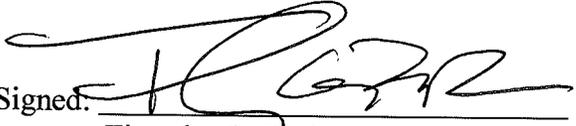
skinsella@fredlaw.com

PROPOSED ATTORNEYS FOR DEBTORS

VERIFICATION

I, Timothy G. Becker, the Executive Vice President of Lighthouse Management Group, Inc., the Chief Restructuring Officer of the Debtors, declare under penalty of perjury that the facts set forth in the preceding motion are true and correct according to the best of my knowledge, information, and belief.

Dated: March 10, 2017

Signed: 
Timothy G. Becker

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673
Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675
Chapter 11 Case

Debtor.

**MEMORANDUM IN SUPPORT OF JOINT MOTION FOR (I) EXPEDITED RELIEF
AND (II) ORDER AUTHORIZING THE DEBTORS TO FILE
CERTAIN DOCUMENTS UNDER SEAL**

The above-captioned debtors (the "Debtors") submit this memorandum of law in support of the Joint Motion for (I) Expedited Relief and (II) Order Authorizing the Debtors to File Certain Documents Under Seal (the "Motion").

BACKGROUND

The supporting facts are set forth in the Motion and the Declaration of Timothy G. Becker in Support of Chapter 11 Petitions and Initial Motions. All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Motion.

ANALYSIS

I. THE DEBTORS' REQUEST FOR EXPEDITED RELIEF SHOULD BE GRANTED.

The Debtors request expedited relief on the Motion. Bankruptcy Rule 9006(c) provides that the Court may reduce the notice period for a Motion “for cause shown.” Fed. R. Bankr. P. 9006(c). Cause exists here to grant the Motion on an expedited basis.

The Debtors filed the KERP/KEIP Motion in conjunction with this Motion. As further described in the KERP/KEIP Motion, the Debtors are seeking approval of the KERP and the KEIP to be heard on an expedited basis, with a hearing scheduled for March 20, 2017. Consequently, expedited relief is necessary here to ensure that the Private Information Exhibits are properly filed under seal prior to the hearing on the KERP/KEIP Motion.

II. THE DEBTORS SHOULD BE AUTHORIZED TO FILE THE PERSONAL INFORMATION EXHIBITS UNDER SEAL.

Section 107(b) of the Bankruptcy Code enables bankruptcy courts to issue orders that protect parties from the potential harm that could result from disclosing confidential information:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may . . . protect an entity with respect to a trade secret or confidential research, development, or commercial information . . .

11 U.S.C. § 107(b); *see also* Fed. R. Bankr. P. 9018. If the court finds that an interested party is requesting information covered by section 107(b) of the Bankruptcy Code, “the court is required to protect a requesting party and has no discretion to deny the application.” *In re Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994). Courts have found that commercial information is generally defined as information that would provide competitors an unfair advantage. *In re Alterra Healthcare Corp.*, 353 B.R. 66, 75 (Bankr. D. Del. 2006); *In re Waring*, 406 B.R. 763, 769 (Bankr. N.D. Ohio 2009).

In addition, section 105(a) of the Bankruptcy Code provides bankruptcy courts with additional authority to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). The Court may use this broad grant of authority to protect entities from the potential harm that may result from the disclosure of certain confidential information. *U.S. ex rel. Gebert v. Transp. Admin. Servs.*, 260 F.3d 909, 919 (8th Cir. 2001).

Here, the confidential information is the Personal Information Exhibits, which contain sensitive, non-public information – they identify the individual names of the KERP and KEIP Participants, as well as their positions, salaries, and projected payments under the KERP and the KEIP. As set forth in more detail in the KERP/KEIP Motion, the Debtors are seeking approval of the KERP and KEIP because the KERP and KEIP Participants are integral to the Debtors’ business and the Debtors’ ability to maximize value in these bankruptcy cases. If the KERP and KEIP Participants and their salaries are disclosed, entities interested in hiring the KERP and KEIP Participants away from the Debtors would gain an unfair advantage because they could use the information to offer enhanced compensation and benefits. Consequently, the disclosure of the Personal Information Exhibits would harm the Debtors’ ability to retain the KERP Participants and incentivize the KEIP Participants.

Moreover, and perhaps more importantly, public disclosure of the names of the KERP Participants and the KEIP Participants, along with sensitive compensation information, will likely harm employee morale and disrupt the Debtors’ business and the Debtors’ ability to maximize the value of the estates. Not all of the Debtors’ employees are KERP and KEIP Participants and disclosure of the identities of the KERP and KEIP Participants, along with their salaries and potential bonuses, would likely create a divide among the Debtors’ employees,

harming morale and preventing the Debtors from focusing on maintaining business operations while maximizing value to the estates. These negative results are the harms the KERP and KEIP seek to avoid. Thus, the Debtors respectfully request that the Court authorize the Debtors to file the Personal Information Exhibits under seal.

CONCLUSION

For the reasons stated above, the Debtors respectfully request that the Court enter an order granting the relief requested in the Motion pursuant to 11 U.S.C. §§ 105 and 107(b), Bankruptcy Rule 9018, and Local Rule 9013-2(g).

Dated: March 10, 2017

/e/ Steven R. Kinsella

Clinton E. Cutler (#0158094)

Cynthia A. Moyer (#0211229)

James C. Brand (#387362)

Sarah M. Olson (#0390238)

Steven R. Kinsella (#0392289)

FREDRIKSON & BYRON, P.A.

200 South Sixth Street, Suite 4000

Minneapolis, MN 55402-1425

Telephone: 612.492.7000

ccutler@fredlaw.com

cmoyer@fredlaw.com

jbrand@fredlaw.com

solson@fredlaw.com

skinsella@fredlaw.com

**PROPOSED ATTORNEYS FOR GANDER
MOUNTAIN COMPANY**

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

Gander Mountain Company,

Case No.: 17-30673
Chapter 11 Case

Debtor.

In re:

Overton's, Inc.,

Case No.: 17-30675
Chapter 11 Case

Debtor.

**ORDER GRANTING EXPEDITED RELIEF AND AUTHORIZING
THE DEBTORS TO FILE CERTAIN DOCUMENTS UNDER SEAL**

This case is before the court on the Joint Motion for (I) Expedited Relief and (II) an Order Authorizing the Debtors to File Certain Documents Under Seal filed by the above-captioned debtors.

Based on the motion and the file,

IT IS ORDERED:

1. The debtors are authorized to file the exhibits to the key employee retention plan and the key employee incentive plan under seal (the "Personal Information Exhibits"), subject to further order of the court.

2. Except upon further order of the court after notice to the debtors, the Personal Information Exhibits shall remain under seal, and shall not be made available to anyone without the express consent of the debtors, except that copies of the Personal Information Exhibits may be provided to (i) the court, (ii) counsel for the United States Trustee on a confidential basis,

(iii) the advisors to the Official Committee of Unsecured Creditors, if any, appointed in the debtors' cases on a confidential basis and on a "professionals' eyes only" basis, (iv) the debtors' prepetition and postpetition secured lenders and their counsel on a confidential basis and on a "professionals' eyes only" basis, and (v) others upon further court order.

3. Prohibiting the United States Trustee from disclosing the information contained in the Personal Information Exhibits pursuant to 11 U.S.C. § 107(c)(3)(B).

4. The debtors and any party authorized to receive copies of the Personal Information Exhibits to are required to (i) redact specific reference to the Personal Information Exhibits set forth therein from any and all pleadings filed on the public docket maintained in these chapter 11 cases; (ii) not use or refer to any of the Personal Information Exhibits in any hearing unless the courtroom has been properly sealed and restricted to the parties who have received the Personal Information Exhibits pursuant to this order; and (iii) file any transcript of any hearing in which Personal Information Exhibits are used under seal.

5. Permitting any party in interest to seek to declassify and make public any portion of the material filed under seal.

6. Authorizing the debtors to take all actions necessary to effectuate the relief granted in the order for the relief requested in the motion.

Dated:

United States Bankruptcy Judge