

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

<b>In re:</b>  <b>MET-COIL SYSTEMS CORPORATION,</b>  <b>Debtor.</b>	<b>Chapter 11</b>  <b>Case No. 03-12676 (MFW)</b>
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**TRAVELERS' MOTION FOR (I) LEAVE TO FILE RESPONSE TO  
MESTEK'S LIMITED OBJECTION TO DEBTOR'S MOTION TO ASSUME  
SETTLEMENT AGREEMENT WITH TRAVELERS; AND  
(II) LEAVE TO FILE RESPONSE AND EXHIBITS UNDER SEAL (Re Docket No. 298)**

Travelers Casualty and Surety Company, formerly known as The Aetna Casualty and Surety Company, and The Travelers Indemnity Company of Illinois (collectively "Travelers"), hereby moves this Court for (i) an Order permitting it to file the attached proposed response (the "Response") to Mestek, Inc.'s Limited Objection to Debtor's Motion to Assume Settlement Agreement with Travelers Casualty and Insurance Company (Docket No. 298) (the "Limited Objection"); and (ii) an Order authorizing the filing under seal of the Response and the exhibits attached thereto. In support of this Motion, Travelers states as follows:

**JURISDICTION**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. 157(b)(2). The predicates for the relief requested herein are 11 U.S.C. § 107(b), Fed.R.Bankr.P. 9018, and Del.Bankr.L.R 5003-1(b) and 9006-1(b).

## REQUEST FOR RELIEF

2. On October 20, 2003, Debtor Met-Coil Systems Corporation (“Debtor”) filed its Motion to Assume Settlement, or in the Alternative, to Approve Settlement (“Motion to Assume”). In the Motion to Assume, Debtor seeks assumption or approval of the three-party settlement among Travelers, Debtor and Debtor’s parent corporation Mestek, Inc. (“Mestek”).

3. On November 26, 2003, Mestek filed its Limited Objection. The Limited Objection sets forth certain material fallacies which must be corrected, for the sake of the record. Accordingly, Travelers has prepared the Response which is attached hereto as Exhibit A.

4. Travelers respectfully submits that the Court’s consideration of the Motion to Assume and the Limited Objection would be advanced if the attached Response were reviewed by the Court. However, both the Response and the exhibits<sup>1</sup> attached thereto contain information subject to verbal or written confidentiality agreements among Travelers, Debtor and Mestek.

5. Section 107(b) of the Bankruptcy Code provides bankruptcy courts with the power to issue orders that will protect entities from potential harm that may result from the disclosure of certain confidential information. This section provides in relevant part that “[o]n 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....” 11 U.S.C. § 107(b).

6. Bankruptcy Rule 9018 defines the procedure by which a party may move for relief under the Bankruptcy Code Section 107(b) and 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

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1 Travelers concedes that Exhibit 1 and 7 are public documents which are not confidential and need not be held under seal. However, in an abundance of caution, and in order to avoid confusion, Travelers seeks to file all the exhibits under seal. Travelers has no objection to

(continued...)

protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information....”

7. Sealing records under Section 107 is not discretionary when Section 107(b) applies. *See In re Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994)(“if the information fits any of the specified categories, the court *is required* to protect the requesting party and has no discretion to deny the application”)(citation omitted). A showing of “good cause” is not an element of Section 107(b).

8. The Response and the exhibits (as identified on Exhibit B attached hereto) contain discussion of the material provisions of the agreement which the Debtor seeks to assume. Such agreement contains a strict confidentiality provision (*see* Paragraph 21 of Exhibit 3 attached to the Response) which specifically provides that the agreement and its terms may not be disclosed, even in an action or proceeding to enforce the agreement, unless a protective order or other confidentiality agreement is secured in connection therewith.

9. Insofar as the Response and each of the exhibits contains confidential information, Travelers requests that this Court place and maintain such documents under seal.

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correcting the record at or following the hearing on the Motion to Assume.

WHEREFORE, Travelers respectfully requests that this Court (i) grant its motion for leave to file the Response to Mestek's Limited Objection, and (ii) authorize the filing of the Response and the exhibits attached thereto under seal. Proposed forms of order are submitted herewith.

Respectfully submitted,

Dated: December 8, 2003  
Wilmington, Delaware

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

By: /s/ Tobey M. Daluz \_\_\_\_\_

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