

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS**

GENERAL ORDER 21-1

**PROCEDURES FOR THE FILING, SERVICE,
AND MANAGEMENT OF HIGHLY SENSITIVE DOCUMENTS**

In response to the recent breaches of computer systems of governments as well as in the private sector, the Court finds that, pursuant to the procedures established by Fed. R. Bankr. P. 5005(a)(2)(A), Loc. R. Bankr. P. 5005-1, and/or TXEB Appendix 5005 for the filing of documents, and pursuant to Loc. R. Bankr. P. 5003-1(a) regarding the Clerk's duty to keep and maintain all filed documents in an electronic format, just cause exists for entry of this General Order regarding the filing and management of highly sensitive documents. Accordingly,

IT IS THEREFORE ORDERED that, effective as of the date of this general order and until such time as the Court orders otherwise, any party who seeks to file a document which allegedly contains highly sensitive information ("HSI"), as defined herein, and hereafter denominated as a highly sensitive document ("HSD"), to proceed according to this procedures set forth in this Order. This General Order supersedes any and all inconsistent provisions in the Local Rules of this Court or in any other General Order.

IT IS FURTHER ORDERED that the scope of highly sensitive information addressed by this Order refers only to information that is:

- (1) likely to be used by a hostile foreign government to harm the strategic interests of the United States;
- (2) likely to be used in the furtherance of foreign or domestic crimes; or
- (3) likely, if disclosed, to pose a risk to national security or result in grave or extreme harm.

IT IS FURTHER ORDERED that, since the protection of sensitive or confidential information of parties in a bankruptcy case can usually be adequately protected through existing court processes to seal documents without avoiding use of the CM-ECF system, a document will be deemed to contain HSI and be subject to the procedures contained herein only if the document contains information regarding or otherwise implicating the following areas of concern:

- (1) national security of the United States;
- (2) the integrity of governmental operations of the United States or its subdivisions;
- (3) the foreign policy of the United States;
- (4) foreign sovereign interests;
- (5) the ability of any entity to maintain cybersecurity;
- (6) the personal safety of public officials; and
- (7) intellectual property and/or trade secrets which implicate the foregoing categories.

IT IS FURTHER ORDERED that the following types of documents should **NOT** be generally considered to be an HSD: (1) bank records; (2) social security records; (3) health records. Parties should generally recognize that documents containing personal identifier information or otherwise implicate personal privacy concerns, or which otherwise address proprietary information, are not sufficiently sensitive to require classification as an HSD and are adequately protected through redaction or the procedures available for the sealing of documents within the CM/ECF system.

IT IS FURTHER ORDERED that the filing of a Motion for HSD Treatment shall be governed by the following procedure:

- (1) **Party represented by Attorney:** A represented party shall file a Motion for HSD Treatment and a proposed order by electronic means as required by Local Rule 5005 and TXEB Appendix 5005, *except that a copy of the proposed HSD shall not be filed electronically*, but shall instead be separately tendered to the Court pursuant to subsection (3) below. The motion shall explain why the subject document constitutes an HSD under the criteria set forth herein or why it should be eligible for HSD protection. A Motion for HSD Treatment shall not require negative notice language nor service, but shall be immediately tendered to the presiding judge; provided that the Court reserves the right to compel a responsive pleading from any party if deemed necessary for proper evaluation of the motion.
- (2) **Party Appearing Pro se:** The filing of a Motion for HSD Treatment by a party who is not represented by an attorney shall file with the Clerk's office: (i) a **paper copy** of the motion containing a justification as set forth in subsection (1) above; and (ii) a proposed order granting such treatment. A Motion for HSD Treatment shall not require negative notice language nor service and shall be determined as set forth in subsection (1) above. *A copy of the proposed HSD shall be tendered separately in a sealed envelope as required by subsection (3) below.*
- (3) **Delivery of the HSD to the Court.** As soon as practicable after the motion is filed, the filing party shall deliver to the Clerk's office the

document for which HSD treatment is sought in the form of either: (i) an unfolded paper copy or (ii) an electronic copy on a secure electronic device contained in a sealed 9' x 12" envelope affixed with the case caption and marked as a "HIGHLY SENSITIVE DOCUMENT." The proposed document should be tendered to the Court by personal delivery, by United States Mail, or by a commercial delivery system.

IT IS FURTHER ORDERED that, should the Court determine that a document constitutes an HSD, the Clerk shall: (i) maintain such HSD, and the order authorizing such treatment, in a secured paper filing system or a secured standalone computer system that is not accessible by any network; (ii) file a generic informational entry on the case docket indicating an HSD has been filed with the Court; and (iii) in consultation with the presiding judge, identify parties entitled to be served with the HSD (if any) and forward the HSD by mail to any such party in the form of a paper copy or an electronic copy tendered on an appropriate digital (electronic) device.

SIGNED this the 11th day of February, 2021.



BILL PARKER
CHIEF UNITED STATES BANKRUPTCY JUDGE