

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

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In re : Chapter 11
: :
KATY INDUSTRIES, INC., : Case No. 17-11101 (___)
: :
Debtor. :
-----X

In re : Chapter 11
: :
CONTINENTAL COMMERCIAL : Case No. 17-11102 (___)
PRODUCTS, LLC, : :
: :
Debtor. :
-----X

In re : Chapter 11
: :
FTW HOLDINGS, INC., : Case No. 17-11103 (___)
: :
Debtor. :
-----X

In re : Chapter 11
: :
FORT WAYNE PLASTICS, INC., : Case No. 17-11104 (___)
: :
Debtor. :
-----X

In re : Chapter 11
: :
WABASH HOLDING CORP., : Case No. 17-11105 (___)
: :
Debtor. :
-----X

In re : Chapter 11
: :
KATY TEWEH, INC., : Case No. 17-11106 (___)
: :
Debtor. :
-----X

In re : Chapter 11
: :
WII, INC., : Case No. 17-11107 (___)
: :
Debtor. :
-----X

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In re	:	Chapter 11
	:	
TTI HOLDINGS, INC.,	:	Case No. 17-11108 (___)
	:	
Debtor.	:	
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In re	:	Chapter 11
	:	
GCW, INC.,	:	Case No. 17-11109 (___)
	:	
Debtor.	:	
-----X		
In re	:	Chapter 11
	:	
HERMANN LOWENSTEIN, INC.,	:	Case No. 17-11110 (___)
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Debtor.	:	
-----X		
In re	:	Chapter 11
	:	
AMERICAN GAGE & MACHINE COMPANY,	:	Case No. 17-11111 (___)
	:	
Debtor.	:	
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In re	:	Chapter 11
	:	
WP LIQUIDATING CORP.,	:	Case No. 17-11112 (___)
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Debtor.	:	
-----X		
In re	:	Chapter 11
	:	
ASHFORD HOLDING CORP.,	:	Case No. 17-11113 (___)
	:	
Debtor.	:	
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In re	:	Chapter 11
	:	
HPMI, INC.,	:	Case No. 17-11114 (___)
	:	
Debtor.	:	
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**MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER DIRECTING
THE JOINT ADMINISTRATION OF THEIR CHAPTER 11 CASES**

The above-captioned debtors (collectively, the “Debtors”), by and through their proposed counsel, DLA Piper LLP (US), hereby submit this motion (the “Motion”) for entry of an order, (a) authorizing and directing the procedural consolidation and joint administration of the Debtors’ chapter 11 cases and (b) granting related relief. In support of the Motion, the Debtors rely upon and incorporate by reference the *Declaration of Lawrence Perkins in Support of First Day Pleadings* (the “First Day Declaration”), filed with the Court contemporaneously with this Motion. In further support of the Motion, the Debtors respectfully state as follows:

JURISDICTION

1. This Court has jurisdiction over these cases and this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors consent to the entry of a final judgment or order with respect to the Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

4. The statutory bases for the relief requested in this Motion are sections 105(a) and 342(c)(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 1015 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 1015-1.

BACKGROUND

5. On May 14, 2017 (the "Petition Date"), each of the Debtors filed with this Court a voluntary petition for relief under the Bankruptcy Code.

6. The Debtors continue to be in possession of their properties and to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. As of the date hereof, no trustee, examiner, or official committee of unsecured creditors has been appointed in the Debtors' chapter 11 cases. No date has been set for a creditor meeting pursuant to section 341 of the Bankruptcy Code.

7. The Debtors in these chapter 11 cases are Katy Industries, Inc., a publicly traded Delaware corporation, and certain of its wholly-owned direct and indirect subsidiaries (collectively, the "Company"). Founded more than 50 years ago, the Company is a well-known manufacturer, importer, and distributor of commercial cleaning and consumer storage products as well as a contract manufacturer of structural foam products. The Company distributes its products across the United States and Canada. The Company is best known for such brands as Continental®, Huskee®, Color Guard®, Wilen®, Muscle Mop®, Contico®, Tuffbin®, and SilverWolf®, among many others. The Company operates three manufacturing facilities located in Jefferson City, Missouri, Tiffin, Ohio, and Fort Wayne, Indiana, with its corporate headquarters located in St. Louis, Missouri. The Company currently employs approximately 300 employees, and supplements its workforce with a significant number of additional labor employed through third parties. The Company boasts a broad and loyal customer base with over 1,500 customers encompassing stable industry leaders, providing the Company with a sustainable platform of consumable products and a recurring revenue source. In the fiscal year 2016, the Company generated revenues of approximately \$107.9 million across its various business units.

8. Over the years, the Company acted as an acquirer of various business units, a number of which came with substantial legacy liabilities which caused increasing strains on the Company's liquidity. More recently, in mid-2015, the Company encountered operational challenges primarily as a result of the move of its Bridgeton manufacturing facility (now known as the Jefferson City facility), which led to a marked decline in the Company's cash flow. The relocation, which involved moving all manufacturing operations, caused prolonged production delays, triggered a substantial increase in outsourcing and maintenance costs, thereby reducing revenue and costing the Company millions of dollars in increased costs. Exacerbating these issues, the synergies expected to be realized from the acquisition of the Tiffin manufacturing facility in late 2015 took longer than expected to realize, resulting in further pressures to the Company's already fragile financial state. Both the losses associated with the Bridgeton facility relocation, and the substantial unrealized investments relating to the Tiffin facility acquisition, when combined with the Company's significant legacy liabilities, led to severely constricted liquidity available to the Company under its existing credit arrangements. Despite numerous efforts to seek alternative financing or investments during this time, the Company was unable to overcome these obstacles, leading to the filing of these chapter 11 cases.

9. The Debtors have determined that preserving and maximizing the value of the Company for the benefit of its customers, employees, vendors, and other stakeholders is best accomplished through the sale of substantially all of their assets. To this end, the Debtors entered into an asset purchase agreement with Jansan Acquisition, LLC ("Jansan" or the "Stalking Horse Purchaser"), a newly created entity co-owned by Highview Capital, LLC, a third-party investor and affiliate of Victory Park Management, LLC, as administrative agent for the Company's pre-petition second lien lender. In addition, the Debtors procured a \$7.5 million

debtor-in-possession financing (the “DIP Facility”) from Jansan (the “DIP Lender”) to provide the Debtors with sufficient liquidity to operate their businesses in chapter 11 during the pendency of the sale process. With these commitments in place, and given the Company’s strong portfolio of proprietary brands, and that end-user demand for the Company’s products is stable and recurring, a sale process effectuated under section 363 of the Bankruptcy Code has the potential to preserve the jobs of hundreds of employees and the value of products and brands developed by the Company over the last fifty years, ultimately inuring to the benefit of all of the Debtors’ stakeholders.

10. Additional factual background regarding the Debtors, including their business operations, capital and debt structures, and the events leading to the filing of these chapter 11 cases, is set forth in detail in the First Day Declaration, which is fully incorporated in this Motion by reference.

RELIEF REQUESTED

11. The Debtors seek entry of an order, pursuant to sections 105(a) and 342(c)(1) of the Bankruptcy Code, Bankruptcy Rule 1015, and Local Rule 1015-1, the Debtors respectfully request entry of an order, substantially in the form attached as **Exhibit A**, (a) authorizing consolidation and joint administration of the Debtors’ chapter 11 cases, for procedural purposes only, (b) directing parties in interest to use a consolidated caption, indicating that any pleading they file relates to the jointly administered bankruptcy cases of “Katy Industries, Inc., *et al.*,” and (c) granting related relief. Specifically, the Debtors request that the Court maintain one file and one docket for all of the jointly administered cases in the case of Katy Industries, Inc. and that the cases be administered under the following consolidated caption (the “Consolidated Caption”):

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

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:

In re: : Chapter 11

:

KATY INDUSTRIES, INC., *et al.*,¹ : Case No. 17-11101(____)

:

Debtors. : (Jointly Administered)

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¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Katy Industries, Inc. (7589), Continental Commercial Products, LLC (3898), FTW Holdings, Inc. (7467), Fort Wayne Plastics, Inc. (7470), Wabash Holding Corp. (9908), Katy Teweh, Inc. (9839), WII, Inc. (0456), TTI Holdings, Inc. (8680), GCW, Inc. (5610), Hermann Lowenstein, Inc. (4331), American Gage & Machine Company (7074), WP Liquidating Corp. (2310), Ashford Holding Corp. (8113), and HPMI, Inc. (4677). The corporate headquarters and the mailing address for the Debtors listed above is 11840 Westline Industrial Drive, Suite 200, St. Louis, MO 63146.

12. The Debtors further request that the Court order that the foregoing caption satisfies the requirements set forth in section 342(c)(1) of the Bankruptcy Code.

BASIS FOR RELIEF

13. Bankruptcy Rule 1015(b)(4) provides that “if . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order joint administration of the estates” of the debtor and such affiliates. *See* Bankruptcy Rule 1015(b)(4). Section 101(2) of the Bankruptcy Code, in turn, defines the term “affiliate,” in pertinent parts, as an:

(A) entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose

property is operated under an operating agreement with the debtor;
or

(D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

See 11 U.S.C. § 101(2).

14. Further, Local Rule 1015-1 provides:

An order of joint administration may be entered, without notice and an opportunity for hearing, upon the filing of a motion for joint administration pursuant to Bankruptcy Rule 1015, supported by an affidavit, declaration or verification, which establishes that the joint administration of two or more cases pending in this Court under title 11 is warranted and will ease the administrative burden for the Court and the parties

Local Rule 1015-1.

15. Each of the Debtors — Continental Commercial Products, LLC, FTW Holdings, Inc., Fort Wayne Plastics, Inc., Wabash Holding Corp., Katy Teweh, Inc., WII, Inc., TTI Holdings, Inc., GCW, Inc., Hermann Lowenstein, Inc., American Gage & Machine Company, WP Liquidating Corp., Ashford Holding Corp., and HPMI, Inc. — are either direct or indirect wholly owned subsidiaries of Katy Industries, Inc. As such, the Debtors are “affiliates” as that term is defined in section 101(2) of the Bankruptcy Code and as used in Bankruptcy Rule 1015(b). Accordingly, joint administration of the Debtors’ cases is appropriate under Bankruptcy Rule 1015(b) and Local Rule 1015-1.

16. The Debtors anticipate that numerous notices, applications, motions, other pleadings, hearings, and orders in these cases will affect several of the Debtors. With fourteen Debtors, each with its own case docket, the failure to jointly administer these cases would result in numerous duplicative filings for each issue, which would then be served upon separate service

lists. This duplication would be extremely wasteful and would unnecessarily overburden the Clerk of the Court.

17. Joint administration will save time and money and avoid such duplicative and potentially confusing filings by permitting counsel for all parties in interest to, among other things, (a) use a single caption on the numerous documents that will be served and filed in these chapter 11 cases and (b) file the pleadings in one case rather than in multiple cases. Moreover, this Court will be relieved of the burden of entering duplicative orders and maintaining duplicative files. Also, joint administration will ease the burden on the Office of the United States Trustee in supervising these bankruptcy cases and will permit the Clerk of the Court to use a main docket for all of the Debtors' cases, allowing the Debtors and other parties in interest to combine notices to creditors and other interested parties. Further, joint administration also will protect parties in interest by ensuring that parties in *each* of the Debtors' respective cases will be apprised of the various matters before the Court in these chapter 11 cases.

18. The rights of the respective creditors of each of the Debtors will not be adversely affected by joint administration of these cases inasmuch as the relief sought is purely procedural and is in no way intended to affect substantive rights. Each creditor and other party in interest will maintain whatever rights it has against the particular estate in which it allegedly has a claim or right. Furthermore, because these cases involve hundreds of creditors, the entry of an order of joint administration will: (a) significantly reduce the volume of pleadings that otherwise would be filed with the Clerk of this Court, (b) render the completion of various administrative tasks less costly, and (c) minimize the number of unnecessary delays associated with the administration of numerous separate chapter 11 cases. Accordingly, the Debtors request that the proposed Consolidated Caption for all notices, applications, motions, and other pleadings,

annexed as **Exhibit 1** to the proposed order approving this Motion, satisfies the requirements of section 342(c)(1) of the Bankruptcy Code in all respects.

19. The Debtors further submit that use of the simplified caption annexed as **Exhibit 1** to the proposed order approving this Motion, will eliminate cumbersome and confusing procedures and help ensure a uniformity of pleading identification. Further, case-specific information will be listed in the petitions for each Debtor, which are publicly available to parties in interest or will be provided by the Debtors upon request, and this information will be included in key notices to parties in interest, such as the notices required under Bankruptcy Rules 2002(a)(1), 2002(a)(7), and 2002(b), as applicable to these chapter 11 cases. Therefore, the Debtors submit that the policies behind the requirements of section 342(c) of the Bankruptcy Code and Bankruptcy Rule 2002(n) have been satisfied.

20. In addition, the Debtors request that the Clerk of Court make separate docket entries on the docket of each of the Debtors' cases (except that of Katy Industries, Inc.), substantially as follows:

An order has been entered in this case consolidating this case with the case of Katy Industries, Inc., Case No. 17-11101 (___), for procedural purposes only and providing for its joint administration in accordance with the terms thereof. The docket in Case No. 17-11101 (___) should be consulted for all matters affecting this case.

21. In view of the fact that joint administration is procedural only, the Debtors respectfully request that the Court direct that any creditor filing a proof of claim against any of the Debtors or their respective estates clearly assert its claim against the particular Debtor obligated on such claim, and not against the jointly administered Debtors.

22. An order of joint administration relates to the routine administration of a case and may be entered by the Court in its sole discretion on an *ex parte* basis. See Local Rule 1015-1. The Debtors submit that no party will be prejudiced by virtue of the relief requested in this

Motion. Specifically, the relief sought herein is solely procedural and is not intended to affect substantive rights. Indeed, the relief requested in this Motion is commonly granted by numerous courts, including this Court. *See, e.g., In re Panda Temple Power, LLC*, Case No. 17-10839 (LSS) [Dkt. No. 34] (Bank. D. Del. April 20, 2017) (order directing joint administration of chapter 11 cases); *In re Rupari Holding Corp.*, Case No. 17-10793 (KJC) [Dkt. No. 37] (Bankr. D. Del. April 12, 2017) (same); *In re Ciber Inc.*, Case No. 17-10772 (BLS) [Dkt. No. 43] (Bank. D. Del. April 11, 2017) (same); *In re Avaya Inc.*, Case No. 17-10089 (SMB) [Dkt. No. 46] (Bank. D. Del. January 20, 2017) (same); *In re Bonanza Creek Energy, Inc.*, Case No. 17-10015 (KJC) [Dkt. No. 79] (Bank. D. Del. January 5, 2017) (same).¹

23. For these reasons, the Debtors submit that the relief requested herein is in the best interest of the Debtors, their estates, creditors and other parties in interest and, therefore, should be granted. No previous request for the relief sought herein has been made to this or any other court.

NOTICE

24. Notice of this Motion shall be provided to: (a) the Office of the United States Trustee for the District of Delaware, (b) each of the Debtors' twenty (20) largest unsecured creditors on a consolidated basis, (c) counsel to the Agent for the Prepetition First Lien Lenders, (d) counsel to the Agent for the Prepetition Second Lien Lender, (e) counsel to the DIP Lender, (f) counsel to the Stalking Horse Purchaser, (g) the United States Attorney's Office for the District of Delaware, (h) the Internal Revenue Service, (i) the Securities and Exchange

¹ The referenced orders are voluminous in nature and, therefore, are not attached to this Motion; however, in accordance with Local Rule 7007-2, as made applicable to main cases by the Court's General Chambers Procedures, Debtors' counsel has copies of each order and will make them available to the Court or to any party that requests them. Additionally, the Orders are available on the Court's CM/ECF PACER site at the cited docket index numbers and on the dates specified above.

Commission, and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties required by Local Rule 9013-1(m). In light of the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Debtors respectfully request that the Court enter an Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested in the Motion and such other and further relief as the Court may deem proper.

Dated: May 14, 2017
Wilmington, Delaware

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Stuart M. Brown

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