IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Consumer Financial Protection Bureau, Plaintiff, v. The National Collegiate Master Student Loan Trust, *et al.*, Defendants.	)	C.A. No. 1:17-cv-01323-MN

PLAINTIFF CONSUMER FINANCIAL PROTECTION BUREAU'S MOTION TO CONTINUE SEAL OUT OF TIME

The Consumer Financial Protection Bureau ("Bureau") hereby moves for an Order permitting the redacted portions of the Bureau's Opposition to Intervenor Transworld Systems Inc.'s Motion to Dismiss and Intervenors Ambac Assurance Corp., Wilmington Trust Co., and Pennsylvania Higher Education Assistance Agency's Motion to Dismiss ("Opposition"), D.I. 319, to remain under seal. In support of its Motion, the Bureau states as follows:

1. The Opposition references Exhibit 3 to Intervenors Ambac Assurance Corp., Wilmington Trust Co., and Pennsylvania Higher Education Assistance Agency's Motion to Dismiss 9 ("the Confidential Exhibit"). That exhibit was designated confidential by the Bureau pursuant to the stipulated protective order entered in this action on March 7, 2019 ("Protective Order"). *See* D.I. 131. On July 10, 2020, the exhibit was filed under seal in support of movants' motion to dismiss. *See* D.I. 302-3. On July 28, 2020, the Bureau requested the Court continue the seal on this exhibit. *See* D.I. 317, Decl. of Gabriel Hopkins, at 2. The Court granted this request on July 31, 2020. *See* D.I. 318, Order Continuing Seal.

2. Under the Protective Order, "Parties and Non-Parties may file briefs and other documents that contain Protected Material under seal." D.I. 131 § 11.1. The term "Protected Material" is defined as "any Disclosure or Discovery Material that is designated as CONFIDENTIAL." *Id*. § 2.15. The Protective Order confers protections not only over Protected Material, but also over "any information copied or extracted from Protected Material." *Id*. § 3.

3. Pursuant to Sections 3 and 11.1 of the Protective Order, on August 7, 2020, the Bureau filed under seal the Opposition, which cited information derived from the Confidential Exhibit. *See* D.I. 319.

4. Although there is a common law right to public access of judicial documents, "courts have also recognized the accompanying principle that 'the right is not absolute.'" *See In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001) (quoting *Littlejohn v. BIC Corp.*, 851 F.2d 673, 678 (3d Cir. 1988)). Public dissemination of the Confidential Exhibit and confidential information derived from it would place the Bureau in violation of the Protective Order. Because the Confidential Exhibit was designated confidential by the party who produced the document, and because the redacted information in the Bureau's Opposition was derived from the Confidential Exhibit, the Court should grant the Bureau's Motion to Continue Seal.

5. WHEREFORE, the Bureau respectfully requests that the Court permit the redacted portions of its Opposition to remain under seal.

Dated: August 17, 2020

Respectfully submitted,

Attorneys for Plaintiff
Bureau of Consumer Financial Protection

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2020, I electronically filed Plaintiff's Motion to Continue Seal with the Clerk of Court using CM/ECF which will send notification of such filing(s) to all parties to this matter registered for CM/ECF.

I hereby further certify that I sent a copy of the same by certified mail to agent authorized to accept service on behalf of the Defendants.

Dated: August 17, 2020

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