

ORIGINAL

LAW OFFICES

ROSE, SUNDSTROM & BENTLEY, LLP

2548 BLAIRSTONE PINES DRIVE
TALLAHASSEE, FLORIDA 32301

FREDERICK L. ASCHAUER, JR.
CHRIS H. BENTLEY, P.A.
ROBERT C. BRANNAN
DAVID F. CHESTER
F. MARSHALL DETERDING
JOHN R. JENKINS, P.A.
STEVEN T. MINDLIN, P.A.
DAREN L. SHIPPY
WILLIAM E. SUNDSTROM, P.A.
DIANE D. TREMOR, P.A.
JOHN L. WHARTON
ROBERT M. C. ROSE, OF COUNSEL
WAYNE L. SCHIEFELBEIN, OF COUNSEL

(850) 877-6555
FAX (850) 656-4029
www.rsbattorneys.com

CENTRAL FLORIDA OFFICE
600 S. NORTH LAKE BLVD., SUITE 160
ALTAMONTE SPRINGS, FLORIDA 32701
(407) 830-6331
FAX (407) 830-8522

MARTIN S. FRIEDMAN, P.A.
VALERIE L. LORD

December 3, 2004

VIA HAND DELIVERY

Blanca S. Bayo
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

040000-PU

RECEIVED- FPSC
04 DEC - 3 PM 12: 04
COMMISSION CLERK

Re: Docket No. 000061-EI

Allied Universal Corporation and Chemical Formulators, Inc.'s Petition to Vacate Order No. PSC-01-1003-AS-EI Approving, as Modified and Clarified, the Settlement Agreement between Allied Universal Corporation and Chemical Formulators, Inc., and Tampa Electric Company and Request for Additional Relief

Dear Ms. Bayo:

Please see the attached document which was filed on November 19, 2004. The original and 15 copies were inadvertently filed in Docket No. 040086-EI in lieu of the correct Docket No. 000061-EI.

Attached please find 16 copies of Odyssey Manufacturing Company's Supplement to Renewed Request for Confidentiality to be filed in Docket No. 000061-EI.

CMP _____ Please confirm receipt of this letter by returning a dated stamped copy to me.

COM _____

CTR _____

ECR 1

GCL 1

OPC _____

MMS _____

RCA /dcr

SCR Attachments
G:\Odyssey\Bayo 120304.wpd

SEC 1

OTH Lock and

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP

Deana Russ
Deana Russ
Assistant to Wayne L. Schiefelbein

RECEIVED & FILED

[Signature]
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

12847 DEC-3 3

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PPSC

04 NOV 19 PM 3: 29

Allied Universal Corporation and)
Chemical Formulators, Inc.'s Petition to)
Vacate Order No. PSC-01-1003-AS-EI)
Approving, as Modified and Clarified, the)
Settlement Agreement between Allied)
Universal Corporation and Chemical)
Formulators, Inc., and Tampa Electric)
Company and Request for Additional)
Relief.)
_____)

Docket No. 040086-EI
Filed: November 19th, 2004

COMMISSION
CLERK

**ODYSSEY MANUFACTURING COMPANY'S SUPPLEMENT
TO RENEWED REQUEST FOR CONFIDENTIALITY**

Odyssey Manufacturing Company ("Odyssey"), supplements its October 21, 2004 Renewed Request for Confidentiality rendering certain documents the Commission previously found to be entitled to protection against public disclosure, and says:

1. Odyssey joins in support of Tampa Electric Company's November 19, 2004 Supplement to Request for Extension of Confidential Classification.
2. Odyssey would add further that the Circuit Court has acted to protect Odyssey's proprietary confidential business information related to Odyssey's electric rate. Please see for example the attached Motion to Seal Documents in Court File, the September 21, 2004 transcript of the proceedings thereon, and the Court's Order. *Allied Universal Corporation and Chemical Formulator, Inc. v. Odyssey Manufacturing Company and Sentry Industries, Inc.*, Case No. 01-27699.

Wherefore, Odyssey Manufacturing Corporation requests that its Renewed Request for Confidentiality be granted.

RECEIVED & FILED



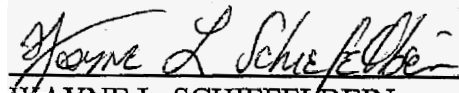
PPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

12847 DEC-3 3

PPSC-COMMISSION CLERK

Respectfully submitted this 19th day of November, 2004.



WAYNE L. SCHIEFELBEIN

Of Counsel

ROSE, SUNDSTROM & BENTLEY LLP

2548 Blairstone Pines Drive

Tallahassee, FL 32301

(850) 877-6555

(850) 656-4029 (Fax)

Attorneys for Odyssey Manufacturing Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification has been furnished via U.S. Mail to the following on this 19th day of September, 2004:

Kenneth A. Hoffman, Esq.
J. Stephen Menton, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302

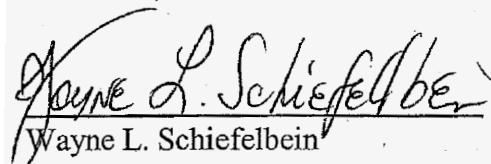
Daniel K. Bandklayder, Esq.
Anania, Bandklayder, Blackwell,
Baumgarten, Torricella & Stein
100 S.E. 2nd Avenue, Suite 4300
Miami, FL 33131

James D. Beasley, Esq.
Ausley & McMullen
227 South Calhoun Street
P.O. Box 391
Tallahassee, FL 32302

Harry W. Long, Jr., Esq.
Tampa Electric Company
702 N. Franklin St., 6th Floor
Tampa, FL 33602

Martha C. Brown, Esq.
Marlene K. Stern, Esq.
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Harold McLean, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400



Wayne L. Schiefelbein

G:\Odyssey\Supplement to renewed request for confidentiality.wpd

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

ALLIED UNIVERSAL CORPORATION, :
a Florida corporation, :
and :

Case No.01-27699 CA25

CHEMICAL FORMULATORS, INC.
a Florida corporation,
Plaintiffs,

v.

ODYSSEY MANUFACTURING :
COMPANY, a Delaware Corporation, and :
SENTRY INDUSTRIES, INC., a Florida :
corporation, :
Defendants.

ORDER ON
DEFENDANTS' MOTION TO SEAL DOCUMENTS IN COURT FILE
AND SUPPLEMENTAL MOTION TO SEAL DOCUMENTS IN COURT FILE

THIS CAUSE having come on to be heard on Defendants' Motion to Seal Documents in Court File and Supplemental Motion to Seal Documents in Court File, and the Court having heard argument of counsel and otherwise being fully advised in the premises, it is hereby

CONSIDERED, ORDERED AND ADJUDGED:

1. Defendants' Motions are hereby granted.
2. The Clerk of the Court is instructed to seal the following documents contained within the Clerk's file for the above-captioned matter:

(a) Steven Sidelko's Deposition attached to Plaintiffs' Notice of Filing dated January 21, 2004.

(b) Patrick Allman's Deposition filed on April 27, 2004.

(c) Lawrence Rodriguez's Deposition filed on November 10, 2003.

3. The Clerk is instructed to not allow public access or review of the three documents sealed pursuant to paragraph 2 above absent further Court order.

4. This Order sealing the above-described documents shall survive the conclusion of the captioned matter.

DONE AND ORDERED in Chambers in Miami-Dade County, Florida, this _____ day of _____, 2004.

CIRCUIT COURT JUDGE
Deformed Copy

Copies Furnished:

OCT 13-2004

Bryan S. Greenberg, Esq., Ruden McClosky, P.O. Box 1900, Fort Lauderdale, Florida 33302; Phone: (954) 527-2472
Dale B. Chavies
Circuit Court Judge

Lawrence D. Silverman, Esq., Akerman, Senterfitt & Eidson, P.A., SunTrust International Center, 28th Floor, One Southeast Third Avenue, Miami, Florida 33131-1704

Daniel K. Bandklayder, Esq., Anania, Bandklayder, et al. 4300 Nations Bank Tower, 100 Southeast Second Street, Miami, Florida 33131

Kenneth A. Hoffman, Esq., Rutledge, Ecenia, Purnell & Hoffman, P.A., 215 South Monroe Street, Suite 420, P.O. Box 551, Tallahassee, FL 32302

Wayne Schiefelbein, Esq., Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, FL 32301

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IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 01-27699 CA 25

ALLIED UNIVERSAL CORPORATION, a
Florida corporation, and CHEMICAL
FORMULATORS, INC., a Florida
corporation,

ORIGINAL

Plaintiffs,

vs.

ODYSSEY MANUFACTURING COMPANY, a
Delaware corporation, and SENTRY
INDUSTRIES, INC., a Florida
corporation,

Defendants.

Miami, Florida
September 21, 2004

The above-entitled case came on for hearing
before the Honorable Michael B. Chavies, Judge of
the above-styled court, at the Miami-Dade County
Courthouse, commencing at 1:25 p.m.

P R O C E E D I N G S

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APPEARANCES:

DANIEL K. BANDKLAYDER, ESQ.
of the firm of ANANIA, BANDKLAYDER,
BLACKWELL, & BAUMGARTEN
on behalf of the Plaintiffs

LAWRENCE D. SILVERMAN, ESQ.
of the firm of AKERMAN SENTERFITT
on behalf of the Plaintiffs

GLENN N. SMITH, ESQ. and
BRYAN S. GREENBERG, ESQ.,
of the firm of RUDEN, MCCLOSKEY, SMITH
SCHUSTER & RUSSELL
on behalf of the Defendants

Also present:

Stephen W. Sidelko

LANCE W. STEINBEISSER,
Registered Professional Reporter
Certified Court Reporter (Texas)

1 (In open court:)

2 THE COURT: Come on up.

3 Okay. Announce your appearances for the
4 Court, please.

5 MR. BANDKLAYDER: Dan Bandklayder and
6 Larry Silverman for the Plaintiffs, Allied
7 and CFI.

8 THE COURT: Okay.

9 MR. GREENBERG: Bryan Greenberg and
10 Glenn Smith for the Defendants, and with us
11 is Mr. Steve Sidelko.

12 THE COURT: Okay. Where did we leave
13 off, folks?

14 MR. GREENBERG: Judge, there was a
15 series of exceptions that the plaintiffs had
16 filed to General Master Farrell's rulings.
17 We had not reached all of them. And in
18 addition, there's a motion to seal certain
19 deposition transcripts that have been filed
20 with the clerk of the court here that we have
21 asked to be sealed.

22 THE COURT: That's something new I
23 hadn't --

24 MR. GREENBERG: No, sir. It was set at
25 the last hearing but we didn't reach it and

1 it was reset again for today. We would
2 request that we could hear that first, if
3 possible.

4 THE COURT: Fine.

5 MR. GREENBERG: Your Honor, the motion
6 to seal -- I don't know if the Court has a
7 copy, but I have a courtesy copy here for the
8 Court. I don't know that it was a part of
9 the binder.

10 THE COURT: I don't know either. But if
11 you have it there --

12 MR. GREENBERG: If I may approach.

13 THE COURT: Yes.

14 MR. GREENBERG: Thank you.

15 During the proceedings on the motion for
16 summary judgment that the defendants filed
17 that the Court granted in part, the
18 plaintiffs filed with the clerk of the court
19 deposition transcripts of two either
20 principals or employees of the defendants,
21 Mr. Sidelko and Mr. Allman.

22 THE COURT: Okay.

23 MR. GREENBERG: There is a
24 confidentiality protective order that's in
25 place that is attached to the motion to seal

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as Exhibit A --

THE COURT: All right.

MR. GREENBERG: -- which requires that before such deposition transcripts be filed by either party that they go through a procedure by transmitting notice to the other side, letting them know that they want to submit that. And if there's no objection, they can then file it; otherwise, if there's an objection, it would be filed under seal so that the confidential matter contained within that transcript would be protected from public disclosure. That's the procedure that's laid out in the agreed protective order signed by the parties.

The agreement provides -- and basically the scope of the agreement is all discovery produced by the parties, be it documents, be it depositions, everything is covered in the definition of confidential material, the idea being that absent the party asserting that something is not confidential, there will be a presumption that it is and then that will eliminate the need to discuss every single thing that the parties are going to use in

1 the case.

2 THE COURT: Okay.

3 MR. GREENBERG: The agreement further
4 provides that all such materials will be
5 either designated confidential by putting on
6 them that they're confidential or by any
7 other reasonable method as agreed to by the
8 parties.

9 And what was discussed between
10 counsel -- and I filed an affidavit in
11 support of this motion. At the very
12 beginning of this lawsuit when this order was
13 entered, what was agreed to was that as far
14 as the parties' materials and depositions and
15 things where we're producing confidential
16 business information, everything will be
17 confidential. We don't need to stamp things
18 or designate things or go through that
19 unnecessary exercise. And that's the way we
20 proceeded in this case, both sides. There
21 were some documents produced that had a stamp
22 of confidential but most did not.

23 None of the deposition transcripts were
24 designated confidential in any way up until
25 the case was two years old and many, many

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party depositions had taken place.

Despite the contents of the protective order and despite the procedure laid out in there and the agreement of the parties, in opposition to the defendants' motion for partial summary judgment, the plaintiffs filed these two transcripts, Mr. Sidelko and Mr. Rakes, and they failed to follow procedure and they became in essence public record at that time in the Miami-Dade County Clerk's Office.

We had filed a motion to seal the court file with regard to those deposition transcripts because they contain confidential proprietary business information about the two defendant entities as well as about Mr. Sidelko and Mr. Allman. There will be no prejudice to the plaintiffs. They have full use of these documents. We just don't want them in the court file, open to the public.

And the thing that necessitated this motion is that after the plaintiffs filed these transcripts in our courthouse, in the PSC matter in Tallahassee they jumped all over it and said well, now these transcripts

1 are public records. And they went down to
2 the clerk's office allegedly and copied them
3 and now filed them for public disclosure up
4 in Tallahassee.

5 So we've now had to, A, file a request
6 in Tallahassee to keep those transcripts
7 confidential, and I've now followed suit here
8 to seek the same confidential status.

9 THE COURT: Okay. Sir?

10 MR. BANDKLAYDER: Well, in response,
11 Your Honor, I believe Mr. Greenberg has
12 completely misstated the terms of the
13 protective order that we have in this case.
14 If -- I think it's attached to the motion.

15 THE COURT: I have it right here in
16 front of me.

17 MR. BANDKLAYDER: It's a five-page order
18 that was carefully negotiated at the time
19 that it was signed by Judge Bloom. And
20 contrary to what Mr. Greenberg has just
21 stated, this order does not blanketedly apply
22 to all discovery in this case; to the
23 contrary.

24 On Page 1, Paragraph A at the bottom, it
25 says that the following shall be deemed

1 confidential: Any written, recorded or
2 graphic materials or documents, tangible
3 items or any other form of information that a
4 party produces in this case which a party in
5 good faith believes to contain trade secrets
6 or confidential, sensitive or proprietary
7 commercial information. And then Paragraph 2
8 on the next page says, the herein described
9 confidential information shall be designated
10 as such by stamping the word "confidential"
11 on the documents or by any other reasonable
12 method as agreed to by the parties.

13 THE COURT: So you're saying the
14 depositions don't fall within the four
15 corners of this?

16 MR. BANDKLAYDER: Yes, because they were
17 never designated by the defendants as
18 confidential in any way, shape or form. We
19 filed these depositions January of this year
20 and April of this year. These things have
21 been filed in the public record for eight
22 months as to some of them and for five months
23 as to others of them. The toothpaste is out
24 of the tube on this, Judge.

25 I don't think you can take something

1 that's been of public record for nine months
2 and then retroactively seal it. I suppose
3 you can sign a paper that does that, but as a
4 practical matter, as they say, the toothpaste
5 is out of tube. The first time that this
6 case up in terms of confidentiality was just
7 this July, a few days before a Public Service
8 Commission hearing when all of a sudden the
9 defendants decided they wanted to try to seal
10 these things because they didn't want the
11 Office of Public Counsel to know what was
12 going on in this case with their discounted
13 electric rate.

14 But be that as it may, Judge, the test
15 here under the Rules of Judicial
16 Administration is whether the defendants have
17 shown that there are trade secrets that must
18 be protected, and there's no less restrictive
19 means other than sealing these deposition
20 transcripts, and they haven't even come close
21 to making that sort of showing.

22 THE COURT: Well, upon a new
23 application, I guess. But let's look back
24 then at the protective order.

25 Mr. Greenberg, it doesn't reference

1 depositions, does it?

2 MR. GREENBERG: Yes, sir, it does.

3 THE COURT: Where?

4 MR. GREENBERG: If you look at
5 Paragraph 1A, first of all, it generically
6 describes any documents, tangible items or
7 any other form of information that a party
8 produces in this case. And then it goes on
9 in Paragraph 3E, if you'll read 3E, it
10 specifically mentions deposition transcripts
11 repeatedly and says --

12 THE COURT: Okay. I haven't read that
13 part. Let's see.

14 MR. GREENBERG: Okay.

15 MR. BANDKLAYDER: Judge, I don't have a
16 problem with him including deposition
17 transcripts --

18 THE COURT: Okay.

19 MR. BANDKLAYDER: -- within the scope of
20 the protective order. But what I'm
21 suggesting is -- what I'm stating is that
22 there was -- the other side never designated
23 these particular transcripts that are at
24 issue now as confidential. They never sent
25 us a letter saying they're confidential.

1 They never stated on the record at the
2 deposition we want this to be deemed
3 confidential under the protective order.
4 They could have done that. And I should
5 point out, we have done that at the
6 depositions of our people when we felt they
7 were confidential.

8 We went on the record at the beginning
9 of the deposition or at the end of the
10 deposition and said we want this deposition
11 to be deemed confidential under the
12 protective order.

13 The defendants didn't do that with
14 regard to these depositions. They're coming
15 in now eight months or nine months later and
16 doing that by filing this motion.

17 THE COURT: What about that?
18 Mr. Bandklayder says the procedure wasn't
19 followed here and it's no fault of his but
20 rather of ours.

21 MR. GREENBERG: Your Honor, as I've
22 noted, I filed an affidavit which explains
23 what the understanding of the parties was
24 specifically in regard to Paragraph 2 of the
25 confidentiality order which says that you can

1 designate something as confidential by either
2 stamping it or by any other reasonable method
3 as agreed to by the parties.

4 And what was agreed to by the parties
5 was that the documents produced by the
6 parties as well as the deposition transcripts
7 of the parties would remain confidential
8 absent compliance with the provisions of 3E
9 for disclosure.

10 THE COURT: So you don't have to stamp.
11 It's done and effectuated by Paragraph 2 of
12 your protective order; correct?

13 MR. GREENBERG: That's correct.

14 THE COURT: All right.

15 MR. GREENBERG: And Your Honor, in
16 response to Mr. Bandklayder's statement that
17 he, on behalf of the plaintiffs, have
18 designated documents and deposition
19 transcripts as confidential, that is not
20 correct. They did not start doing it until
21 2004. That is the first time they did it
22 when they came -- when they filed
23 Mr. Sidelko -- when Mr. Sidelko's deposition
24 transcript was filed in Tallahassee, that is
25 the first time that on the record at a

1 deposition they stated we declare this
2 deposition to be confidential, and the
3 response at that time was well, okay, all of
4 them have been confidential. And we
5 continued to abide by the understanding the
6 parties had, Judge.

7 There is no harm to the plaintiffs to
8 have these documents sealed. All we're
9 seeking is to protect them from public
10 inspection, and counsel is right; it's hard
11 to put toothpaste back in the tube, but when
12 it is the plaintiffs' conduct in violation of
13 an order that results in the toothpaste
14 coming out, we believe the court should in
15 good faith attempt to put it back into the
16 tube.

17 THE COURT: Well, what about that,
18 Mr. Bandklayder, with regard to this
19 Paragraph 2 that Mr. Greenberg says there was
20 an agreement that depositions of the parties
21 would be deemed to be confidential.

22 MR. SILVERMAN: Your Honor, I've been
23 the discovery guy on our side --

24 THE COURT: Okay. Fine. Mr. Silverman
25 then.

1 MR. SILVERMAN: Since we first started
2 producing documents in 2001 we have stamped
3 them as confidential. I wrote them a letter
4 every time we produced documents stamping
5 them as confidential.

6 In the deposition of Michael Koven which
7 was the first deposition --

8 THE COURT: I don't care about that. It
9 says here, by any other reasonable method as
10 agreed to by the parties.

11 MR SILVERMAN: That certainly is it.

12 THE COURT: And Mr. Greenberg said there
13 was an agreement, that being that depositions
14 of parties would be deemed to be
15 confidential. That's what he said

16 MR. SILVERMAN: That is absolutely not
17 an agreement that we had because, A, we did
18 designate things throughout -- deposition
19 testimony, that first deposition of Michael
20 Koven, we went ahead and designated that as
21 confidential.

22 In July they finally on the record at
23 the deposition of Mr. Koven noted
24 retroactively that they were designating all
25 of these depositions as confidential. We

1 never agreed to that. There's no writing.
2 We've done a lot of stuff orally, and they
3 are people of good faith and high standing,
4 but we never agreed that everything was going
5 to be confidential; you can't in a case like
6 this.

7 THE COURT: Has it been memorialized
8 then, Mr. Greenberg?

9 MR. GREENBERG: No, sir, it was not. It
10 was understood as professionals and I have
11 filed my affidavit in support of this and
12 there is -- Your Honor, if we believed we
13 needed to simply say we deem this
14 confidential, obviously we would have done
15 that. And for two years this case proceeded,
16 for two years, and not a single deposition
17 transcript including depositions of the
18 principals in this case; my side, their side.
19 At least six, seven depositions of the
20 principals took place; no statement on the
21 record by them or by us.

22 And finally in January of 2004 for the
23 first time, after the deposition transcripts
24 of Mr. Sidelko was filed in Tallahassee, they
25 said oh, by the way, we now have decided the

1 way to do this for depositions is to say
2 something. That's the first time --

3 THE COURT: Even though there's nothing
4 here that would proscribe the depositions
5 being filed in the manner that they were and
6 not done -- and not determined to be
7 confidential, what's the prejudice to you to
8 have them sealed at this point in time?

9 MR. BANDKLAYDER: The only prejudice is
10 it does put a -- it does make it very
11 difficult to have the Office of Public
12 Counsel and other people involved in the
13 Public Service Commission who want to see
14 these things. It's very difficult for us to
15 then disclose the information to them when we
16 have a circuit court ruling that's deeming it
17 confidential.

18 THE COURT: And it hasn't been done yet?
19 They don't have it yet? They don't have the
20 information?

21 MR. BANDKLAYDER: We've been very
22 cautious about filing everything with the
23 Public Service Commission under -- there's a
24 confidentiality procedure that they have up
25 there that's very cumbersome, and we've used

1 that to keep things confidential up till now.

2 So the transcripts that we're talking
3 about, no, I don't believe -- with the
4 exception of one, one of Mr. Allman's
5 depositions which the Office of Public
6 Counsel already obtained from the court file.
7 With the exception of that, I don't think the
8 Office of Public Counsel has obtained
9 complete copies of the other three
10 depositions.

11 THE COURT: So Allman wouldn't fall
12 under this anyway; right?

13 MR. GREENBERG: Yes, Mr. -- I'm sorry,
14 Your Honor.

15 THE COURT: He would?

16 MR. GREENBERG: Yes, sir. He is an
17 employee of Defendant Odyssey Manufacturing.

18 THE COURT: Okay. I thought you said of
19 the parties.

20 MR. GREENBERG: I said of the
21 principals.

22 THE COURT: Okay.

23 MR. GREENBERG: Yes, he would be within
24 that scope.

25 THE COURT: I don't see the harm though

1 in sealing the depositions at this time:

2 MR. BANDKLAYDER: Substantively, Judge,
3 there probably isn't any. It just creates a
4 lot of time and expense. But Judge, may I
5 just suggest if Your Honor is going to allow
6 them to have some sealing of these things, I
7 mean clearly these depositions in their
8 entirety are not all confidential and trade
9 secrets. They should be required to
10 designate what they believe is confidential
11 and/or trade secrets and not subject to
12 disclosure.

13 THE COURT: Okay.

14 MR. GREENBERG: Your Honor, I suppose
15 what's good for the goose is good for the
16 gander. If Mr. Bandklayder wants to take the
17 position that both parties have to go through
18 every deposition transcript of the parties
19 and their representatives and segregate out
20 that which we are asserting is confidential,
21 both parties can do that at this point.

22 I think it's superfluous and unnecessary
23 and I think the flip-side, as we've handled
24 this, is the appropriate way which is if a
25 party wants to disclose something, they can

1 make a request to do it under the
2 procedure --

3 THE COURT: Well, I think that was the
4 spirit of this agreement at that time and
5 although it's not actually --

6 MR. BANDKLAYDER: No, the agreement says
7 the contrary. The agreement says that the
8 party asserting the confidentiality will
9 designate what's confidential and they did
10 not do that in this case. It's really only
11 pertinent to depositions that a party wants
12 to file. So we're limiting this now to the
13 two depositions of Allman and the two or
14 three depositions of Sidelko. It really
15 doesn't apply to any others at this point.

16 THE COURT: That's all that's been
17 applied for. Go ahead and seal them. I'll
18 grant your motion.

19 MR. GREENBERG: Just to note, Judge, we
20 had filed a supplement to the motion with
21 regard to a transcript that we had filed
22 accidentally because it had been designated
23 confidential in the PSC matters that had
24 occurred back in '98, '99. I don't believe
25 that plaintiffs object, but we had filed it

1 here and we just want this sealing to
2 encompass that one deposition as well because
3 it contained -- it's a TECO representative,
4 and there was an order from the PSC
5 designating that testimony as confidential,
6 and we just want to make sure that that does
7 not similarly -- we violated the order in
8 Tallahassee unknowingly because we didn't
9 know it covered this testimony.

10 So we just want to comply with that
11 order in Tallahassee by having you further
12 designate that prefiled testimony that we
13 filed for Mr. Rodriguez.

14 THE COURT: Fine.

15 MR. GREENBERG: Thank you, Judge.

16 MR. BANDKLAYDER: Are they then going to
17 be designating the deposition excerpts that
18 they deem confidential on these Allman and
19 Sidelko depositions; is that your ruling?

20 THE COURT: No, that wasn't the ruling.
21 The ruling was that they would be as applied
22 for, that the depositions would be sealed.
23 So that's the ruling of the court. Let's
24 move on.

25 Next.

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

Case No. 01-27699 CA25

ALLIED UNIVERSAL CORPORATION, :
a Florida corporation, and CHEMICAL :
FORMULATORS, INC., a Florida :
corporation, :
Plaintiffs, :

v. :

ODYSSEY MANUFACTURING :
COMPANY, a Delaware Corporation, and :
SENTRY INDUSTRIES, INC., a Florida :
corporation, :
Defendants. :

MOTION TO SEAL DOCUMENTS IN COURT FILE

Defendants, ODYSSEY MANUFACTURING COMPANY and SENTRY INDUSTRIES, INC. ("Defendants"), by and through undersigned counsel, hereby move to seal certain deposition transcripts contained within the Court file, and in support thereof state:

1. On September 3, 2002, the Court entered an Agreed Protective Order ("Order"), a copy of which is attached hereto as Exhibit "A."
2. Pursuant to the Order, all transcripts of depositions containing confidential, proprietary business information concerning the parties was to remain confidential and was precluded from being filed without following a specific procedure.
3. Specifically, ¶ 1(A) defines the term "confidential information" very broadly to include any material produced by a party that the party believes in good faith to contain "trade secrets or confidential, sensitive or proprietary commercial information...."

4. Paragraph 3(E) of the Order then expressly prohibits any party from disclosing confidential information "used in any deposition testimony" except after following the procedure delineated in the Order. Critically, ¶ 3(E) goes on to state the following with regard to deposition transcripts containing confidential information:

In the event a party wishes to file a document, transcript, or thing containing Confidential Information described in this Order with the Court for any purpose, the party shall first serve the opposing party with the document, transcript, or thing containing the alleged Confidential Information. After service, the parties agree to consult with each other to discuss whether the document, transcript or thing actually contains Confidential Information as described herein. If the parties agree that the document, transcript or thing does not include Confidential Information, the document, transcript, or thing may be filed with the Court. If any of the parties believe that the material served contains Confidential Information, then any of the parties, prior to any filing of the document, transcript, or thing involved, shall apply to the Court pursuant to Rule of Judicial Administration 2.051 for a determination of whether the Confidential Information are confidential as described herein, and the document, transcript or thing involved shall be filed only in a form as specified pursuant to the resulting Court Order.

5. On April 22, 2004, the Court entered an Agreed Order on Defendants' Emergency Motion for Contempt and For Sanctions, a copy of which is attached hereto as Exhibit "B." That Agreed Order permitted the parties to file transcripts from depositions in this matter with the Florida Public Service Commission, but only and subject to "their seeking confidential classification thereof pursuant to Rule 25-22.006, F.A.C."

6. Plaintiffs, in direct violation of the Order, filed several deposition transcripts with the Court in opposition to Defendants' Motions for Summary Judgment. Specifically, Plaintiffs filed (i) deposition transcript of Stephen Sidelko on January 21, 2004; and, (ii) deposition transcript of Patrick Allman on April 27, 2004.

7. Mr. Sidelko is a principal of Defendants and Mr. Allman is an employee of Odyssey. Their deposition transcripts contain confidential, proprietary business information about Odyssey's and Sentry's business operations.

8. Plaintiffs were obligated, prior to filing the above listed transcripts, to comply with the procedural requirements of the Order by serving the transcript on Defendants, consulting with them regarding which portions should remain confidential and then taking appropriate measures to protect the confidential portions of those transcripts prior to filing. Plaintiffs failed to do so.

9. Odyssey will be greatly prejudiced if the Court does not protect Odyssey's and Sentry's business interests by sealing the transcripts referenced above in the court file.

10. Odyssey and Sentry have already been harmed by Plaintiffs' conduct. Public Counsel has relied upon Plaintiffs' improper filing of the transcripts in this matter as a basis to file those transcripts with the Florida Public Service Commission without seeking confidential classification.

WHEREFORE, Defendants, ODYSSEY MANUFACTURING COMPANY and SENTRY INDUSTRIES, INC. request that the Court enter an Order instructing the Clerk to seal the transcripts in the Court file referenced above, and for such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by prepaid U.S. Mail to: Lawrence D. Silverman, Esq., AKERMAN, SENTERFITT & EIDSON, P.A., SunTrust International Center, 28th Floor, One Southeast Third Avenue, Miami, Florida 33 131-1704; Daniel K. Bandklayder, Esq., ANANIA, BANDKLAYDER, BLACKWELL BAUMGARTEN & TORRICELLA, 4300 Nations Bank Tower, 100 Southeast Second Street, Miami, Florida 33131; Kenneth A. Hoffman, Esq., RUTLEDGE, ECENIA, PURNELL & HOFFMAN, P.A., 215 South Monroe Street, Suite 420, P.O. Box 551, Tallahassee, FL 32302 and to Wayne Schiefelbein, Esq., ROSE, SUNDSTROM & BENTLEY, LLP, 2548 Blairstone Pines Drive, Tallahassee, FL 32301, this 13th day of July, 2004.

Respectfully submitted,

RUDEN, McCLOSKEY, SMITH
SCHUSTER & RUSSELL, P.A.
Attorneys for Defendants
Post Office Box 1900
Fort Lauderdale, Florida 33302
(954) 764-6660 (954) 764-4996 (Fax)

By: 

Bryan S. Greenberg
Florida Bar No. 968315

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR DADE
COUNTY, FLORIDA

CASE NO. 01-27699 CA 25

ALLIED UNIVERSAL CORPORATION,
a Florida Corporation; and CHEMICAL
FORMULATORS, INC., a Florida
Corporation,

Plaintiffs,

vs.

ODYSSEY MANUFACTURING
Company, a Delaware Corporation;
and SENTRY INDUSTRIES, INC.,
a Florida Corporation,

Defendants.

RECEIVED

AUG 28 2002

B.S.G.

Agreed (SS)

PROTECTIVE ORDER

THIS CAUSE having come on to be heard upon Defendants', Odyssey Manufacturing Company and Sentry Industries, Inc., Motion for Protective Order, and upon the consent and agreement of Plaintiffs Allied Universal Corporation and Chemical Formulators, Inc., it is hereby ORDERED that the parties to this action, in order to provide protection of confidential and proprietary information and trade secrets of the parties and facilitate the discovery in this action, shall be governed by the following:

1. The following materials shall be deemed confidential (the "Confidential Information"):

A. Any written, recorded or graphic materials or documents, tangible items or any other form of information that a party produces in this case, which a party, in good faith,

believes to contain trade secrets or confidential, sensitive or proprietary commercial information, as provided by Rule of Judicial Administration 2.051(9)(A)(ii);

2. The herein-described Confidential Information shall be designated as such by stamping the word "Confidential" on the document or by any other reasonable method as agreed to by the parties.

3. That Confidential Information shall not:

A. Be disclosed, disseminated, published or made public to anyone but the parties and attorneys of record in this case, their personnel, agents and staff of counsel, expert witnesses, lay witnesses, court reporters and deponents, as is necessary for the conduct of the case. Attorneys of record and the parties hereto shall see that each person to whom this information is disclosed has read this agreement, and signs an affidavit in the form attached hereto as Exhibit "A" agreeing to be bound thereby;

B. Be used for any purpose whatsoever, except for pretrial preparation and trial of this action;

C. Be used in any manner in connection with any other action or proceeding, except in accordance with the terms hereof;

D. Be copied, duplicated or reproduced in whole or in part for any purpose whatsoever, except for pretrial preparation and trial of this action, without the prior written consent of counsel for party designating the subject Confidential Information as confidential or prior Order of this Court upon notice;

E. Be made any part of the public record of this case, whether in evidence or otherwise, except as provided herein, although this agreement does not prohibit its use as evidence in the trial of this case. If Confidential Information are used in any deposition

testimony, or interrogatory answer, or other discovery response, or as evidence, or is quoted or disclosed in any affidavit, brief, deposition, transcript or other paper filed in this action, such materials and papers shall be filed only as provided by this Order or such further order as may be entered by the Court. In the event a party wishes to file a document, transcript, or thing containing Confidential Information described in this Order with the Court for any purpose, the party shall first serve the opposing party with the document, transcript, or thing containing the alleged Confidential Information. After service, the parties agree to consult with each other to discuss whether the document, transcript or thing actually contains Confidential Information as described herein. If the parties agree that the document, transcript or thing does not include Confidential Information, the document, transcript, or thing may be filed with the Court. If any of the parties believe that the material served contains Confidential Information, then any of the parties, prior to any filing of the document, transcript, or thing involved, shall apply to the Court pursuant to Rule of Judicial Administration 2.051 for a determination of whether the Confidential Information are confidential as described herein, and the document, transcript or thing involved shall be filed only in a form as specified pursuant to the resulting Court Order; or;

F. Be analyzed, summarized, or contained in any report, summary or analysis, unless such report, summary or analysis or any document containing any such designated information or documentation is considered and treated as Confidential Information subject to this Stipulation and to the protection of the Order of this Court entered pursuant hereto.

4. The attorneys of record and the parties hereto shall be responsible for the actions of their personnel and staff and expert witnesses in the event the provisions of this Order are violated.

5. Any party may dispute a designation of confidentiality and bring before the Court a request for the Court to determine whether or not confidentiality should or should not apply to particular discovery.

6. Where confidentiality is disputed, the discovery shall be deemed confidential pending the ruling of the Court on the dispute.

7. All Confidential Information furnished to a party pursuant to disclosure or discovery in this action shall be returned to the designating party at the conclusion of this litigation, including any and all copies of such document or documents which in whole or in part contain any such Confidential Information;

8. Any and all documents which contain summaries, reports or analyses of the Confidential Information shall be returned to the designating party at the conclusion of this matter, and any copy of any such summary, report, or analysis retained shall be redacted to exclude all reference, discussion, or analysis of such designated documents or information.

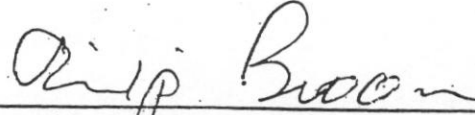
9. Nothing in this Order shall prevent any party from seeking modification of this Order with either written consent of both parties or Court order.

10. It is further and specifically stipulated and agreed by the parties that the Court enter the Order submitted herewith adopting and incorporating the terms of this Confidentiality Agreement and Protective Order and that the Court may use its contempt powers or any other sanctions to enforce the terms of this Agreement and the Order entered pursuant hereto upon the request of any party.

SEP 03 2002

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this ____ day of

_____, 2002.



Honorable Philip Bloom
Circuit Court Judge

Copies furnished to:
Glenn N. Smith, Esq.
Bryan S. Greenberg, Esq.
Lawrence D. Silverman, Esq.
Daniel K. Bandklayder, Esq.
Kenneth A. Hoffman, Esq.

3. I will return to Plaintiffs' counsel all protected documents, materials and transcripts in my possession, if any, in the case of *Allied Universal Corporation and Chemical Formulators, Inc. v. Odyssey Manufacturing Company and Sentry Industries, Inc.*, Case No. 01-27699 CA 25, In the Circuit Court of the 11th Judicial Circuit, In and for Miami-Dade County, Florida.

4. I have retained no notes, summaries, documents or drawings nor any information or data taken from the aforesaid protected documents and materials.

FURTHER AFFIANT SAYETH NAUGHT.

Subscribed and sworn to before

me on this ____ day of ____

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

ALLIED UNIVERSAL CORPORATION, :
a Florida corporation, :

and :

CHEMICAL FORMULATORS, INC. :
a Florida corporation, :

Plaintiffs, :

v. :

ODYSSEY MANUFACTURING :
COMPANY, a Delaware Corporation, and :
SENTRY INDUSTRIES, INC., a Florida :
corporation, :

Defendants. :

Case No.01-27699 CA25

**AGREED ORDER ON DEFENDANTS' EMERGENCY
MOTION FOR CONTEMPT AND FOR SANCTIONS**

THIS CAUSE having come on to be heard on Defendants, ODYSSEY
MANUFACTURING COMPANY and SENTRY INDUSTRIES, INC.'S, Emergency Motion for
Contempt and for Sanctions, and the parties having agreed to the entry of this Order and the
Court otherwise being fully advised in the premises, it is hereby

CONSIDERED, ORDERED AND ADJUDGED as follows:

1. The Court's Protective Order dated September 3, 2002 remains in full force and effect.
2. The parties are hereby permitted to file any and all documents and deposition transcripts obtained during the captioned matter with the Florida Public Service Commission

("PSC"), Docket No. 040086-EI, subject to said party seeking confidential classification thereof pursuant to Rule 25-22.006, F.A.C.

DONE AND ORDERED in Chambers in Miami-Dade County, Florida, this _____ day of March, 2004.

Conformed Copy

APR 22 2004

Michael B. Chavies
CIRCUIT COURT JUDGE
Circuit Court Judge

Copies Furnished:

Glenn N. Smith, RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A., P.O. Box 1900, Fort Lauderdale, Florida 33302

Lawrence D. Silverman, Esq., AKERMAN, SENTERFITT & EIDSON, P.A., SunTrust International Center, 28th Floor, One Southeast Third Avenue, Miami, Florida 33131-1704

Daniel K. Bandklayder, Esq., ANANIA, BANDKLAYDER, BLACKWELL BAUMGARTEN & TORRICELLA, 4300 Nations Bank Tower, 100 Southeast Second Street, Miami, Florida 33131

Kenneth A. Hoffman, Esq., RUTLEDGE, ECENIA, PURNELL & HOFFMAN, P.A., 215 South Monroe Street, Suite 420, P.O. Box 551, Tallahassee, Florida 32302

Wayne L. Schiefelbein, Esq., ROSE, SUNDSTROM & BENTLEY, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301