IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: CROWN BOILER CO., LLC Debtor.	CASE NO. 26-20515 (JCM) Chapter 11
OFFICIAL COMMITTEE OF UNSECURED CREDITORS Movant, v. CROWN BOILER CO., LLC Respondent.	Related Doc. No.: Hearing Date: Response Deadline:

EXPEDITED MOTION OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO
COMPEL DEBTOR'S COMPLIANCE WITH THE COURT'S MAY 4, 2026, ORDER

Pursuant to Rule 9013-1 of the Bankruptcy Local Rules for Western District of Pennsylvania, the Official Committee of Unsecured Creditors (the "Committee") in the above-captioned Chapter 11 case of Crown Boiler Co., LLC (the "Debtor"), by and through its undersigned proposed counsel, respectfully submits this expedited motion for supplementary relief, compelling the Debtor to produce relevant and discoverable information and documents responsive to the Committee's *Priority Informal Discovery Requests* (the "Priority Discovery Requests"), which were served on the Debtor on or about May 4, 2026, pursuant to this Court's May 4, 2026, Order (the "Motion").

Emergency relief is warranted here. The current deadline for responding to the DIP Motion[1], the Cash Collateral Motion[2], and the FCR Motion[3] is May 25, 2026. Yet, the Debtor has again failed to produce key documents necessary for the Committee to meaningfully assess these various motions on baseless grounds, and the Committee's objection deadline would otherwise lapse before this Motion is heard on regular 21-day notice.

The Committee hereby submits this Motion, along with true and correct copies of the exhibits cited herein, attached to the Certification of David W. Ross, filed contemporaneously herewith (the "Ross Certification"), and, in support thereof, respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

2. The Committee confirms its consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. The statutory predicates for the relief sought herein are Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 7026, 7030, 7037, and 9014; Federal Rules of

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1 *Debtor's Motion for Approval of Postpetition Financing Pursuant to 11 U.S.C. § 364(b) and (c) and § 901, Fed. R. Bankr. P. 4001(c)* [ECF No. 38] (the "DIP Motion").

2 *Debtor's Expedited Motion for Authority to Use Cash Collateral and to Approve Execution of Waiver and Third Amendment to Credit Agreement* [ECF No. 73] (the "Cash Collateral Motion").

3 *Debtor's Expedited Motion for Order Appointing Edward T. Gavin, CTP, NCPM as Legal Representative for Future Asbestos Claimants* [ECF No. 58] (the "FCR Motion").

Civil Procedure (the "Federal Rules of Civil Procedure") 26, 30, and 37; and Section 105(a) of the Bankruptcy Code.

RELIEF REQUESTED

4. The Committee respectfully requests, pursuant to Bankruptcy Rule 9014, that the Court enter an order compelling the Debtor to produce discoverable information and documents in response to the Committee's Priority Discovery Requests, substantially in the form of the proposed order attached hereto.

FACTUAL BACKGROUND[4]

5. The Debtor has yet again reneged on its representations to the Committee—and to this Court—regarding the timing and scope of its document productions. Since the Committee filed, and the Court granted, the First Motion to Compel, the Debtor has continued to delay and obstruct the Committee's efforts to obtain the discovery necessary to prepare for the upcoming hearing concerning, among other things, the Debtor's proposed DIP financing and cash collateral, and the appointment of an FCR and CRO. The Committee has diligently attempted to resolve these issues with the Debtor. However, the Debtor's delay tactics have once again forced the Committee to resort to motion practice to compel the Debtor's compliance with the Court's Order.

6. On May 4, 2026, the Court held a hearing on the First Motion to Compel (the "Hearing"). During the Hearing, the Court acknowledged the Debtor's willingness to produce documents in its own possession and pressed the Debtor regarding whether it could produce

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4 The Committee hereby incorporates by reference the factual background set forth in more detail in its *Expedited Motion of the Official Committee of Unsecured Creditors to (I) Compel the Production of Discoverable Information and Documents; and (II) Adjourn the May 13th Hearing* [ECF No. 181] (the "First Motion to Compel"), which sought an order (i) compelling the Debtor to produce documents responsive to the Committee's discovery requests and (ii) adjourning the May 13th hearing to facilitate additional time for the Committee to conduct its discovery. Capitalized terms not otherwise defined herein shall have the meanings set forth in the First Motion to Compel.

documents in the possession of the Debtor's parent, Burnham Holdings, Inc. ("BHI").[5] The Debtor represented to the Court that it "can certainly do that" so long as the Committee agreed that it would not use the fact that the Debtor was able to obtain and produce documents from BHI to support a veil-piercing argument.[6] The Committee confirmed its agreement that it would not use the fact that the Debtor produced such documents to support a veil-piercing argument, and the Court memorialized the Parties' mutual understanding on the record.[7]

7. The Court thereafter issued its Order granting, in part, the Committee's First Motion to Compel.[8] Relevant to this Motion, the Order directed: (*i*) the Committee to present the Debtor with a list of discovery items needed to form responses to the upcoming hearing on the Debtor's first-day motions by May 5, 2026; (*ii*) the Debtor to file responses and objections on or before May 8, 2026; and (*iii*) the Debtor to produce responsive documents on or before May 15, 2026.[9]

8. That same day, in advance of the May 5th deadline mandated in the Order, the Committee served on the Debtor its Priority Discovery Requests.[10] The Priority Discovery Requests narrow the scope of the Committee's initial discovery requests for purposes of the

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5 **Ross Cert. Ex. A**, Hearing Tr. 29:18-22.

6 *Id.* at 29:23-30:11.

7 *Id.* at 30:12-31:9. To be clear, this agreement does not prohibit the Committee from using the documents to support veil-piercing if the content of the documents support it. *See id.*

8 *Order*, entered May 4, 2026 [ECF No. 205].

9 *Id.* at ¶¶ 1-3.

10 **Ross Cert. Ex. B**, *Priority Informal Discovery Requests by UCC Related to Certain of the Debtor's First Day Motions*, dated May 4, 2026 ("Priority Discovery Requests").

upcoming hearing on the Debtor's first day motions—specifically, the DIP Motion, Cash Collateral Motion, and FCR Motion.[11]

9. On May 8, 2026, the Debtor served on the Committee via email its Response to the Priority Discovery Requests.[12] The Debtor failed to file the Response with the Court, as required by the Court's Order.[13]

10. Contrary to the Debtor's representations to this Court, the Debtor's Responses objected to the scope of certain of the Priority Discovery Requests on the basis that the Requests seek responsive documents related to third-party or non-Debtor entities, such as BHI.[14] The Debtor's Response as such Requests expressly stated it would produce responsive documents *only to the extent they relate to the Debtor and/or the Debtor's own assets, liabilities and transactions*.[15]

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[11] For the avoidance of doubt, the Committee prepared the Priority Discovery Requests, identifying the documents needed on an expedited basis, pursuant to the Order. *See* **Ross Cert. Ex. A**, Hearing Tr. 32:3-7.

The Committee previously served on the Debtor the Committee's *First Informal Discovery Requests*, which were supplemented and superseded by the Committee's *Second Informal Discovery Requests*, served on April 8, 2026, and April 17, 2026, respectively. The requested documents are critical to the Committee's investigation and evaluation of potential estate claims against the Debtor and non-Debtor affiliates, such as BHI, and must be timely produced. *See id.* at 31:18-25 ("With respect to the matters before the Court at this time, the Court does take the arguments set forth by the Committee seriously. And if the Debtor wants to move on a fast pace in this case, it will also need to produce documents similarly quickly to the Committee. The Committee has raised some important matters that it needs to investigate, and without the documents, the Court believes that it is unable to do so.").

It has been over 30 days since the Committee served the discovery requests on the Debtor, and the Debtor has yet to make any response or objection. Accordingly, the Committee seeks an order that the Debtor has waived any objections by failing to respond to the Committee's requests and directing the Debtor to timely produce such responsive documents.

[12] **Ross Cert. Ex. C**, *Response to Committee's Priority Informal Discovery Requests Related to Certain of the Debtor's First Day Motions*, dated May 8, 2026 ("Response").

[13] *See* Order at ¶ 2 ("If the Debtor has any responses in opposition to the expedited discovery list, it shall immediately inform the Committee *and file its responses with the Court* on or before May 8, 2026.") (emphasis added).

[14] *See, e.g.*, **Ross Cert. Ex. C**, Response to ¶¶ 2, 6, and 7.

[15] *Id.*

11. The Committee promptly raised its concerns regarding the Debtor's position regarding records from affiliated entities, such as BHI, the Debtor's asserted relevance objections, and the Debtor's collection efforts.[16] In response, Counsel for the Debtor again pivoted, stating that it would be "producing information and documents from Crown and BHI."[17]

12. The Parties met-and-conferred on May 11, 2026, and on the following day, the Committee wrote to the Debtor by email to memorialize its understanding of the Parties' positions.[18] Among other things, the Debtor represented that the Debtor's position that it was in the process of identifying relevant documents "through self-collection performed by BHI's CFO and GC (in coordination with Debtor's Controller) and the Debtor's proposed CRO," although the Debtor also indicated it was willing to apply search terms and a custodial data collection process if proposed by the Committee.[19] The Debtor also elaborated on its concerns regarding the potential cross-use of discovery obtained in the bankruptcy proceedings in parallel litigation brought by personal counsel to certain Committee members.[20]

13. The Debtor responded three days later—on the Court's deadline for the Debtor to produce documents responsive to the Committee's Priority Discovery Requests.[21] Despite the Debtor's prior representation that it would "produc[e] information and documents from Crown and BHI", the Debtor now clarified that it would only agree to produce documents related to the Debtor's operations.[22] The Debtor also, for the first time, asserted that the custodial data collection

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[16] *See* **Ross Cert. Ex. D**, at 3-5, May 10, 2026 email from H. Miller.

[17] *See* **Ross Cert. Ex. D**, at 1, May 10, 2026 email from S. Berman.

[18] *See* **Ross Cert. Ex. E**, at 6-10, May 12, 2026 email from H. Miller.

[19] *Id.*

[20] *Id.*

[21] *See* **Ross Cert. Ex. E**, at 1-5, May 15, 2026 email from S. Berman.

[22] *Id.*

process constituted a new request outside of the Committee's initial and Priority Discovery Requests (it is not).[23] Lastly, the Debtor reiterated its concern over alleged conflicts of interest implicated by the involvement of yet unnamed personal counsel to Committee members, but it did not respond to the Committee's proposal for a third confidentiality tier (*e.g.*, Professionals' Eyes Only) be added to the draft Confidentiality Agreement.[24]

14. Since then, the Parties have continued to exchange email communications regarding their respective positions these issues and deficiencies in the Debtor's productions to date.[25] While the Committee remains willing to meet and confer with the Debtor, it is clear the Parties have reached an impasse.

COMPLIANCE WITH L.R. 7037-1

15. In compliance with W.PA.LBR 7037-1(g), the Committee submits herewith the Certification of David W. Ross, which details the Committee's good faith meet and confer efforts regarding the discovery issues raised herein and identifies relevant exhibits in connection with this Motion.

ARGUMENT

16. Rule 26 of the Federal Rules of Civil Procedure, made applicable here by Rules 7026 and 9014(c) of the Federal Rules of Bankruptcy Procedure, permits discovery regarding any non-privileged matter that is "relevant to any party's claim or defense and proportional to the needs of the case."[26] The broad scope of the Federal Rules of Civil Procedure

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[23] *Id.*

[24] *Id.*

[25] *See, e.g.*, **Ross Cert. Ex. F**, May 18 through May 20, 2026 emails between from S. Berman and D. Ross.

[26] *United States v. Forrest*, 2024 WL 4204920, at *3 (M.D. Pa. Sept. 16, 2024) (quoting Fed. R. Civ. P. 26); *Pacitti v. Macy's*, 193 F.3d 766, 777 (3d Cir. 1999) (holding it is "well recognized that the federal rules allow broad and liberal discovery").

carries additional force with official committees, which have a statutory and fiduciary obligation to investigate "the acts, conduct, assets, liabilities, and financial condition of the debtor."[27] The party opposing discovery of relevant information bears the burden of demonstrating why the requested materials should not be produced.[28]

17. Broadly speaking, the Debtor's objections to the Priority Discovery Requests based on responsiveness is deficient in several respects. The Debtor's purported concerns regarding potential conflicts of interest stemming from the involvement of personal counsel to certain Committee are likewise unfounded.

I. The Debtor's Withholding of BHI's Documents Is Contrary to Its Express Representations to the Court.

18. As an initial matter, the Debtor explicitly represented to this Court at the May 4th Hearing that it could produce documents in BHI's possession provided the Committee agreed not to use such disclosure to support a veil-piercing argument against BHI.[29] The Committee confirmed its agreement, and the Parties' mutual understanding was reflected on the record.[30] It now appears that the Debtor is walking back on its end of the bargain.[31]

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27 11 U.S.C. § 1103(c)(2); *see also In re Advanced Contracting Sols., LLC*, 582 B.R. 285, 304 (Bankr. S.D.N.Y. 2018) (noting that statutory committees have "broad consultation and investigation powers").

28 *John Wiley & Sons, Inc. v. Book Dog Books, LLC*, 298 F.R.D. 184, 186 (S.D.N.Y. 2014) ("Where a party objects to a discovery request, the 'objecting party bears the burden of demonstrating 'specifically how, despite the broad and liberal construction afforded the federal discovery rules, each [request] is not relevant or how each question is overly broad, burdensome or oppressive by submitting affidavits or offering evidence revealing the nature of the burden.'") (quoting *McKissick v. Three Deer Ass'n Ltd. P'ship*, 265 F.R.D. 55, 56-57 (D. Conn. 2010)).

29 **Ross Cert. Ex. A**, Hearing Tr. 29:18-31:9.

30 *Id.*

31 This is not the first time the Debtor has done so. In opposing the appointment of a Chapter 11 Trustee, the Debtor previously represented to this Court that it would not oppose a committee's request to investigate loan documentation supporting DIP financing being provided by BHI. *See* **Ross Cert. Ex. G**, April 9, 2026 Hearing Tr. 27:14-17. However, the Debtor has not followed through on this

19. In direct contravention to the Debtor's representation that it is willing and able to produce documents in BHI's possession, the Debtor now seeks to evade its production obligations by invoking corporate separateness and unsupported objections based on responsiveness. Throughout its Response to the Priority Discovery Requests, the Debtor asserts that it will only produce documents "in its possession, custody and control"; limits its agreement to produce documents "as they relate to the Debtor only"; or expressly objects to the production of documents related to BHI or any of the Debtor's or BHI's affiliates.[32] However, as discussed below, the documents at issue in the Committee's Priority Discovery Requests are relevant to the Committee's investigation, and in particular, to the first day motions set to be heard at the May 27th hearing. The Debtor should be bound to its representations to this Court and the Committee that it would produce documents that are in its own and BHI's possession.

II. Discovery from BHI Is Relevant and Proportional to the Needs of the Bankruptcy Proceedings.

20. Documents and information related to BHI are indisputably relevant to this bankruptcy proceeding. By way of example, the Committee requested "materials considered or presented to by any board, committee, or officer concerning strategic alternatives, including: (i) restructuring alternatives; (ii) the decision to commence Chapter 11; (iii) the DIP financing;

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representation. Despite the Committee's requests, the Debtor has not produced the DIP loan agreement or related documents.

[32] *See, e.g.*, **Ross Cert. Ex. C**, Response at ¶ 7 ("The Debtor further objects to production of any responsive documents related solely to Burnham Holdings or any affiliates of the Debtor and/or Burnham Holdings. The Debtor will produce only documents relevant to its own assets, liabilities and transactions.); *id.* at ¶ 7(a) ("The Debtor will produce responsive, non-privileged documents in its possession, custody and control, to the extent such documents are insurance policies and coverage materials that apply to the Debtor. *If such policies and coverage materials do not apply to the Debtor, they will not be produced nor does the Debtor have possession, custody or control of such documents.*") (emphasis added); *id.* at ¶ 6 ("The Debtor objects to this Request as overly broad in that it does not identify any specific entity, and therefore encompasses third-party documents. Subject to the foregoing, and to the extent the Debtor is in possession, custody or control of such documents, the Debtor will produce responsive, non-privileged documents *as they relate to the Debtor only*.") (emphasis added).

and (iv) the decision to pursue or not pursue a Section 524(g) trust structure."[33] This information is relevant to the Debtor's DIP Motion and FCR Motion for several reasons, including that the Debtor itself contends the DIP proposal was the best available alternative and that selection of an FCR (along with the attendant expense) is only appropriate to the extent the Debtor seeks to confirm a 524(g) plan—which plan may ultimately include a channeling injunction for the benefit of non-Debtor entities, including BHI.

21. In connection with its evaluation of the Debtor's DIP and Cash Collateral Motions, the Committee requested documents "relating to the October 17, 2023 Pledge and Security Agreement (and related Credit Agreement) by which Crown became a guarantor to secure a total $72 million in credit facilities for Burnham entities[.]"[34] This is plainly relevant to the Committee's investigation of the events precipitating these bankruptcy filings, the Debtor's proposed DIP financing, and the Debtor's overall assets and liabilities. Indeed, this Court credited the Committee's argument that to accurately assess the Debtor's DIP Motion, the Committee required insight into the Debtor's assets and liabilities.

22. Notwithstanding, the Debtor has refused to produce such responsive documents on the basis that this discovery is directed at third-party and non-Debtor entities, and therefore, not

[33] **Ross Cert. Ex. B**, Priority Discovery Requests at ¶ 6.

[34] *Id.* at ¶ 2.

relevant to the bankruptcy proceedings.[35] The Debtor objects to the Committee's insurance-related requests on a similar basis.[36]

23. First, to the extent discovery bears on the Debtor's relationship and course of dealings with BHI and other non-Debtor entities, the Committee again submits this information is plainly relevant here. While the evidentiary record remains at an early stage, legitimate concerns persist that BHI and other non-Debtor entities may have received fraudulent or otherwise avoidable transfers or may be subject to claims belonging to the Debtor, making discovery directed at such issues appropriate and necessary.

24. In fact, despite the Debtor's remarks at the April 9th hearing that the releases contemplated under the Cash Collateral Motion were not intended to run for the benefit of any non-Debtor entities (and instead were only applicable to the Debtor's secured lender),[37] the Debtor has yet to submit a revised proposed order to that effect. This leaves open the possibility that a valuable estate asset may be squandered in connection with the Cash Collateral Motion and necessitates the Committee to vigorously investigate this issue.

25. Second, the Debtor appears to seek to utilize certain documents, such as those related to the Debtor's guarantee of a loan made to BHI, at the upcoming hearing while not

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35 *See, e.g.*, **Ross Cert. Ex. C**, Response at ¶ 2 ("The Debtor further objects to the extent responsive documents involve non-Debtor entities that are the targets of ancillary litigation by counsel for certain Committee members, and this request is targeted to obtain documents related to such ancillary litigation rather than any matter at issue in this bankruptcy case."); *id.* at ¶ 6 (objecting that the request "encompasses third-party documents" and agreeing to produce "responsive, non-privileged documents *as they relate to the Debtor only*") (emphasis added).

36 *See, e.g.*, *id.* at ¶ 7(c) ("Moreover, counsel for the Committee members represents plaintiffs in ancillary litigation against the Debtor's affiliates and other third parties, and provision of the requested information related to available insurance limits and prior settlements will provide such counsel with a significant and unfair advantage in those cases, with little relevant to the instant bankruptcy case.").

37 *See* **Ross Cert. Ex. G**, April 9, 2026 Hearing Tr. 30:1-31:8.

providing the same to the Committee.[38] In other words, such documents are in the Debtor's possession and responsive to the Committee's requests—but the Debtor is only willing to provide such information to the Debtor's CRO, and not to equally provide the same to the Committee. Courts routinely bar a party from relying on documents or communications it withholds from discovery while advancing arguments based on the substance of those same materials.[39] To the extent such responsive documents exist and are provided to the Debtor's CRO, the Debtor should be compelled to produce the same to the Committee in response to its requests.

26. The Debtor, a wholly-owned subsidiary of BHI, no longer has any officers or employees of its own. Prior to filing its Bankruptcy Petition, the Debtor's operations were instead managed and controlled by BHI's officers,[40] and the Debtor and BHI's finances were commingled.[41] BHI also originated many of the records filed in this bankruptcy proceeding and in support of the pending motions:

(i) BHI filed the Debtor's Bankruptcy Petition;[42]

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38 *See* **Ross Cert. Ex. C**, Response at ¶ 2 ("[D]ocuments will not be produced to the Committee in response to this Request. Responsive documents will be provided to the Debtor's Chief Restructuring Officer who will review and possess them for administration of this case consistent with applicable bankruptcy law including Third Circuit authority.").

39 *See John Doe Co. v. U.S.*, 350 F.3d 299, 302 (2d Cir. 2003); *U.S. v. Bilzerian*, 926 F.2d 1285 (2d Cir. 1991).

40 *Debtor's Response to Motion of the U.S. Trustee for an Order Directing the Appointment of a Trustee Under 11 U.S.C. § 1104 of the Bankruptcy Code, or in the Alternative Converting the Case or Dismissing the Case* [ECF No. 69], at ¶ 15 (noting that "the Debtor, a wholly-owned subsidiary of BHI, is managed by officers of its corporate parent").

41 *See* **Ross Cert. Ex. H**, March 24, 2026 Hearing Tr. 20:25-21:2, 21:9-11 ("There was a common treasury management function for all of the BHI entities with cash management aggregated at the BHI level. . . . The case was aggregated at the BHI level and distributed to the operating subsidiaries on a daily basis.").

42 *See Amended Statement Regarding Authority to Sign and File Petition*, filed March 6, 2026 [ECF No. 24] (Nick Ribich, the CFO of BHI, was "authorized by the Board of Directors of Burnham Holdings, Inc. to sign and file this Petition on behalf of the Debtor").

(ii) BHI provided the Petition's supporting schedules, affidavits and exhibits;[43]

(iii) BHI is funding the Debtor's bankruptcy case;[44]

(iv) BHI and the Debtor share the same counsel;[45]

(v) BHI engaged the Debtor's CRO on behalf of the Debtor;[46]

(vi) the CRO's invoices are being issued to BHI, not the Debtor;[47] and

(vii) the CRO regularly conferred with BHI, not the Debtor.[48]

27. Despite clear evidence that BHI is orchestrating the affairs of the Debtor, the Debtor and BHI now seek to evade any discovery into BHI and hide behind its alleged corporate separateness. This conduct finds no support in law or precedent and reflects a clear misuse of the discovery process.

28. In practice, given the interconnected nature of the Debtor and BHI's relationship, the practical implication of restricting the Committee's sought-after discovery into BHI is to deprive the Committee of any meaningful investigation in the bankruptcy proceedings. This is especially concerning where, as here, the Debtor is selectively providing BHI's records to the

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43 *See, e.g.*, *Petition Completed* [ECF No. 44] (showing BHI's CFO, Nick Ribich, signed the Debtor's schedules of assets and liabilities); *Affidavit of Nick Ribich in Support of Complex Chapter 11 Designation and First Day Motions* [ECF No. 50] ("I am the Vice President and Chief Financial Officer of Burnham Holdings, Inc., the parent company of [the Debtor]. I am authorized to submit this affidavit on behalf of the Debtor.").

44 *See* DIP Motion ¶ 5.

45 *See Application to Employ Shumaker, Loop & Kendrick, LLP as Bankruptcy Counsel for the Debtor in Possession as of the Petition Date* at ¶ 10 [ECF No. 25] ("The Firm has represented Burnham Holdings, Inc., the parent company of the Debtor, since November 2018, in corporate matters as requested by the company from time to time, including in the lead up to the bankruptcy filing.").

46 The Nottingham Group Engagement Letter [ECF No. 117-2] (engagement letter for employment of J. Fellin and The Nottingham Group as Debtor's CRO accepted by BHI as Sole Member of the Debtor).

47 The Nottingham Group Invoice [ECF No. 242-3] (showing The Nottingham Group's invoice was submitted to General Counsel of Burnham Holdings).

48 *Id.* (reflecting time entries for "Meeting with members of Burnham and counsel to discuss hearing and my role" and "weekly catch up call with BHI reps and counsel").

Debtor's CRO, but not to the Committee,[49] and the Debtor has made representations to this Court regarding its financial situation without providing copies of the underlying agreements or documents.[50]

29. In a bankruptcy proceeding such as this—initiated and directed by an insider parent entity exercising significant control over the Debtor—more scrutiny by the Committee is warranted. Indeed, more scrutiny was expected by the Court when it denied the U.S. Trustee's Motion to Appoint a Chapter 11 Trustee. During the April 9th hearing in which that motion was heard, the Debtor's Counsel recognized the Committee's right "to investigate whatever they want to investigate" and stated that it would not oppose a committee's requests to investigate loan documentation.[51]

30. In view of this need for additional scrutiny by the Committee, coupled with the Debtor's prior representation to this Court and the Committee regarding its ability to request the pertinent documents from BHI, the Debtor should be compelled to produce responsive documents and information related to BHI and other non-Debtor affiliates.[52]

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49 *See* **Ross Cert. Ex. C**, Response at ¶ 2.

50 *See, e.g.*, DIP Motion (no proposed loan agreement attached).

51 **Ross Cert. Ex. G**, April 9, 2026 Hearing Tr. 27:6-9, 27:14-17.

52 *See Camden Iron & Metal, Inc. v. Marubeni Am. Corp.*, 138 F.R.D. 438, 441-42 (D.N.J. 1991) (explaining that federal courts construe "control" very broadly under Federal Rule of Civil Procedure 34 and that "the determination of control turns upon whether the intracorporate relationship establishes some legal right, authority or ability to obtain the requested documents on demand. Evidence considered by the courts includes the degree of ownership and control exercised by the parent over the subsidiary, a showing that the two entities operated as one, demonstrated access to documents in the ordinary course of business, and an agency relationship.").

III. The Debtor's Concerns Regarding Potential Cross-Use of Discovery Is Baseless and Readily Addressed Through a Confidentiality and Protective Order.

31. The Debtor's refusal to respond to certain of the Committee's discovery requests on the grounds they purportedly seek non-debtor information related to ancillary litigation is misplaced and does not excuse its discovery obligations.

32. The Debtor has repeatedly expressed concerns that certain of BHI's documents sought in the Committee's Priority Discovery Requests are also being sought in parallel litigation brought by certain of the Committee members' personal counsel, noting they are "deeply troubled by the conflicts of interest implicated by their involvement."[53]

33. To address this concern, the Committee suggested adding a third confidentiality tier (*e.g.*, Professionals' Eyes Only) to the draft Confidentiality Agreement that restricts the permissible uses and disclosure of designated documents. Specifically, documents produced with a "Professionals' Eyes Only" designation would be accessible only to the Committee's professionals (*i.e.*, the Committee's counsel and financial advisor). The Committee's members and their personal counsel would be prohibited from viewing such documents.

34. Courts recognize protective orders and restrictions on the disclosure of information, such as 'Attorneys' Eyes Only" and "Professionals' Eyes Only" designations, as standard tools used to facilitate discovery and protect against the improper dissemination of confidential information produced in litigation.[54]

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[53] **Ross Cert. Ex. E**, at 4, May 15, 2026 email from S. Berman.

[54] *See, e.g.*, *In re Avandia Mktg., Sales Practices & Products Liab. Litig.*, 924 F.3d 662, 671 (3d Cir. 2019) ("A protective order is 'intended to offer litigants a measure of privacy, while balancing against this privacy interest the public's right to obtain information concerning judicial proceedings.'"); *Zenith Radio Corp. v. Matsushita Elec. Indus. Co.*, 529 F. Supp. 866, 911 (E.D. Pa. 1981) (recognizing that protective orders facilitate information exchange and may require limits on speech by parties and their counsel outside the court).

35. The use of such confidentiality designations, rather than a wholesale refusal to produce responsive documents, appropriately balances the Debtor's and BHI's interest in maintaining the confidentiality of such documents against the Committee's right to obtain relevant discovery. The entry of a Confidentiality Agreement that provides for a "Professionals' Eyes Only" designation will limit the disclosure of properly designated documents and mitigate the Debtor's concerns.

IV. <u>The Debtor's Self-Collection of Responsive Discovery Is Improper.</u>

36. Finally, the Debtor represented that both the Debtor and BHI have identified documents relevant and responsive to the Priority Discovery Requests. This was apparently conducted through a process of "self-collection"—specifically, BHI's Chief Financial Officer and General Counsel, in coordination with the Debtor's Controller, and the Debtor's proposed CRO have been asked to review their own emails and documents and identify responsive documents to be produced to the Committee. Such a process, however, is not standard in e-discovery and is susceptible to under-collection, selective bias, and data spoliation concerns.

37. The identification of agreed-upon custodians and search terms is a standard feature of modern e-discovery, creating a defensible collection and review structure that promotes an objective process and facilitates the exchange of relevant information between parties. It is not properly addressed through discovery requests themselves. The process also mitigates the risks inherent in client self-collection efforts. Indeed, courts recognize that such self-collection and lack of adequate oversight by counsel runs counter to a party's discovery obligations under Rule 26 of the Federal Rules of Civil Procedure.[55]

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[55] *See, e.g.*, *Domus BWW Funding, LLC v. Arch Ins. Co.*, No. 2:23-cv-00094-JDW, 2024 WL 3761737, at *6 (E.D. Pa. Aug. 12, 2024) (awarding sanction against litigant that failed to implement timely

38. The Debtor indicated that it was willing to engage in a custodial data collection process and to apply search terms, if proposed by the Committee. However, after the Committee proposed an initial set of custodians, the Debtor again reversed course and took the position that this constitutes a new discovery request that falls outside the scope of the Committee's initial or Priority Discovery Requests. The Debtor has thus far refused to engage with the Committee with respect to appropriate custodians, search terms, or other items necessary for the Committee to ascertain the reasonableness of the Debtor search. Instead, the Debtor maintains, without any support, that it has gone "above and beyond what the Rules require" with respect to its document collection practices.[56] However, the Debtor's admitted self-collection process, absence of any e-discovery plan, and apparent lack of oversight by counsel fail to satisfy the requirements of Rule 26 of the Federal Rules of Civil Procedure.[57] Accordingly, to ensure the Debtor adequately fulfils its discovery obligations, the Court should compel the Debtor to confer with the Committee on reasonable and appropriate custodians and search terms.

RIGHT TO EXPEDITED RELIEF UNDER L.R. 9013-(2)(a)

39. The Committee has worked diligently and cooperatively with the Debtor to obtain the necessary discovery, without which the Committee would be unduly prejudiced in connection with the May 27th hearing. Pursuant to the Court's Order, the Committee narrowly tailored its Priority Discovery Requests to facilitate production of the necessary documents, and it regularly communicated and conferred with the Debtor to clarify the Debtor's objections to and expedite

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litigation hold, lacked internal e-discovery processes, engaged in poorly managed self-collection, and incorrectly represented documents did not exist instead of searching for them).

56 *See* **Ross Cert. Ex. F**, at 2, May 20, 2026 email from S. Berman.

57 *See Domus BWW Funding, LLC v. Arch Ins. Co.*, 2024 WL 3761737, at *6 (awarding sanction against litigant that failed to implement timely litigation hold, lacked internal e-discovery processes, engaged in poorly managed self-collection, and incorrectly represented documents did not exist instead of searching for them).

productions. The need for an expedited hearing has not been caused by any lack of due diligence on the part of the Committee or its counsel but has been brought about solely by circumstances beyond their control. Expedited relief is necessary here because the Debtor has failed to timely provide the requested information and thereby obstructed the Committee's efforts.

CONCLUSION

40. For the foregoing reasons, the Committee respectfully requests that the Court compel the Debtor to produce the requested information and documents responsive to the Committee's Priority Discovery Requests and grant such other relief as is just and proper.

Dated: May 22, 2026

Respectfully submitted,

WH BURKLEY, LLP

*/s/ David W. Ross*____________________

David W. Ross
601 Grant Street, 9th Floor
Pittsburgh, PA 15219
Telephone: (412) 456-8163
Email: dross@bernsteinlaw.com

Proposed Local Counsel for the Official Committee of Unsecured Creditors

- AND -

BROWN RUDNICK LLP
David J. Molton (*pro hac vice*)
Eric R. Goodman
Gerard T. Cicero (*pro hac vice*)
Susan Sieger-Grimm (*pro hac vice*)
Hayden A. Miller (*pro hac vice*)
Seven Times Square, 47th Floor
New York, NY 10036
Telephone: (212) 209-4800
DMolton@BrownRudnick.com
EGoodman@BrownRudnick.com
GCicero@BrownRudnick.com
SSieger-Grimm@BrownRudnick.com
HMiller@BrownRudnick.com

Proposed Counsel for the Official Committee of Unsecured Creditors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: CROWN BOILER CO., LLC Debtor.	CASE NO. 26-20515 (JCM) Chapter 11
OFFICIAL COMMITTEE OF UNSECURED CREDITORS Movant, v. CROWN BOILER CO., LLC Respondent.	Related Doc. No.: Hearing Date: Response Deadline:

[PROPOSED] ORDER GRANTING EXPEDITED MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO COMPEL DEBTOR'S COMPLIANCE WITH THE COURT'S MAY 4, 2026, ORDER

This matter, having come before the Court upon the *Expedited Motion of the Official Committee of Unsecured Creditors to Compel Debtor's Compliance with the Court's May 4, 2026, Order* (the "Motion") filed by the Official Committee of Unsecured Creditors (the "Committee"); the Court having reviewed the Motion and supporting papers; the Court having found that (a) the Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (b) venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (d) the Committee has satisfied its good-faith meet-and-confer obligations under applicable rules; and (e) the Committee has demonstrated that the relief requested in the Motion is warranted under the applicable rules; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Motion is GRANTED.

2. Within [__] days of entry of this Order, the Debtor shall produce to the Committee all non-privileged documents and information responsive to the discovery requests identified in the Motion, including without limitation, the Priority Discovery Requests (as defined in the Motion).

3. Within [__] days of entry of this Order, the Debtor shall meet and confer with the Committee regarding the Debtor's proposed custodians and applicable search terms.

4. Failure to comply with this Order may result in the imposition of appropriate sanctions pursuant to Federal Rule of Bankruptcy Procedure 7037.

5. The Court retains jurisdiction to enforce, interpret, and implement this Order.

BY THE COURT:

____
Judge John C. Melaragno
United State Bankruptcy Court