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*Proposed Attorneys for the Official
 Committee of Unsecured Creditors*

UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF WASHINGTON

In re:

Astria Health, *et al.*,¹
 Debtors.

Lead Case No. 19-01189-11

Jointly Administered

OFFICIAL COMMITTEE OF
 UNSECURED CREDITORS' MOTION
 FOR AN ORDER ESTABLISHING
 INFORMATION SHARING
 PROCEDURES FOR COMPLIANCE
 WITH 11 U.S.C. §§ 1102(b)(3) AND
 1103(c), *NUNC PRO TUNC TO MAY
 24, 2019*

¹ The Debtors, along with their case numbers, are as follows: Astria Health (19-01189-11), Glacier Canyon, LLC (19-01193-11), Kitchen and Bath Furnishings, LLC (19-01194-11), Oxbow Summit, LLC (19-01195-11), SHC Holdco, LLC (19-01196-11), SHC Medical Center-Toppenish (19-01190-11), SHC Medical Center-Yakima (19-01192-11), Sunnyside Community Hospital Association (19-01191-11), Sunnyside Community Hospital Home Medical Supply, LLC (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional Services,



1 The Official Committee of Unsecured Creditors (the “Committee”) in the
2 chapter 11 cases of Astria Health (together with its affiliated debtors in possession,
3 the “Debtors”), by and through its proposed undersigned counsel, submits this
4 motion (the “Motion”) pursuant to sections 105(a), 107(b)(1), 1102(b)(3), and
5 1103(c) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule
6 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for
7 entry of an order establishing certain information sharing procedures in these
8 cases, and respectfully states as follows:

9 **BACKGROUND**

10 1. On May 6, 2019 (the “Petition Date”), each of the Debtors filed a
11 voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors
12 are operating their businesses and managing their assets and properties as debtors
13 in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

14 2. On May 24, 2019 (the “Formation Date”), the Office of the United
15 States Trustee for the Eastern District of Washington appointed the Committee.
16 The Committee consists of the following seven members: (i) CHSPSC, LLC, (ii)
17 LocumTenens.com, LLC, (iii) Community Health of Central Washington, (iv)
18 Medtronic USA, Inc., (v) Morrison Management Specialists, Inc., (vi) Apogee
19 Physicians, and (vii) Boston Scientific. The Committee selected Sills Cummis &
20 Gross P.C. as its lead counsel, and Polsinelli P.C. as its local counsel.

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23 LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-11), and Yakima HMA
Home Health, LLC (19-01200-11).

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JURISDICTION

3. This Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

REQUESTED RELIEF

4. By this Motion, the Committee seeks entry of an order, *nunc pro tunc* to the Formation Date, substantially in the form attached hereto as Exhibit A (the “Proposed Order”): (i) clarifying that section 1102(b)(3) of the Bankruptcy Code does not require the Committee to disseminate proprietary, non-public confidential information, including, but not limited to, any draft pleadings, documents, memoranda, expert reports, summaries, communications, settlement discussions and other information and materials, whether or not provided voluntarily or involuntarily by or on behalf of the Debtors or by any third party, or prepared by or for the Committee, and any information, documents or other materials provided by the Debtors to the Committee pursuant to that certain Confidentiality Agreement dated as of June 6, 2019 (collectively, the “Confidential Information”), or information that is subject to the attorney-client, work-product or some other state, federal or other jurisdictional law of privilege, whether such privilege is solely controlled by the Committee or is a joint privilege with the Debtors or a third party (collectively, the “Privileged Information”) to its non-member constituency; (ii) deeming the Committee and its advisors to be in compliance with section 1102(b)(3) of the Bankruptcy Code as a result of the implementation of certain

1 procedures described herein (the “Procedures”); and (iii) determining that the
2 Committee is not required to comply with any additional procedures beyond the
3 Procedures.

4 5. The Committee believes that the sharing of *all* information without
5 limitations could be detrimental to maximizing value of the estates for the benefit
6 of all parties in interest. If there were a risk that the Debtors’ Confidential
7 Information could be disclosed to any creditor, the Debtors would probably be
8 unwilling to share such information with the Committee.² The inability of the
9 Committee to gain access to Confidential Information, in turn, would limit the
10 ability of the Committee to fulfill its statutory obligations under the Bankruptcy
11 Code.

12 6. To satisfy its fiduciary obligations in an efficient and effective
13 manner, the Committee is proposing to establish a website (the “Website”) to make
14 certain non-confidential information available to general unsecured creditors. To
15 conserve estate resources, the Committee proposes that Kurtzman Carson
16 Consultants LLC (“KCC”) establish and maintain the Website. KCC is a vendor
17 that specializes in the creation and maintenance of such websites and is already
18 familiar with the facts and circumstances of these cases, given that KCC was
19 selected as the Debtors’ claims agent.³ The Committee Website will contain links
20

21 ² Nothing contained in this Motion shall be deemed to constitute the
22 Committee’s agreement that any particular information provided to it in these
chapter 11 cases by the Debtors is confidential, and the Committee expressly
reserves all of its rights in that regard.

23 ³ Similar procedures have been used in In re Promise Healthcare Group, LLC, Case No. 18-12491 (CSS) (Bankr. D. Del. Jan. 7, 2019); In re M & G USA Corp., Case No. 17-12307 (BLS) (Bankr. D. Del. Jan. 5, 2018); In re Payless

1 to the Court's CM/ECF website and will include the following information: (i) the
2 Petition Date, the case number, and general information about the Debtors' chapter
3 11 cases; (ii) the contact information for the Debtors' professionals and the
4 Committee's professionals; (iii) information regarding significant events in these
5 cases and relevant deadlines (including the claims bar date) and all pleadings that
6 are relevant thereto; (iv) when filed with the Court, the disclosure statement and
7 plan (together with any exhibits thereto); and (v) any other information that the
8 Committee, in its discretion, deems appropriate, subject to the restrictions and
9 limitations imposed by the Court. The Website will also contain an email address
10 to allow the Debtors' unsecured creditors to send questions and comments to the
11 Committee concerning these cases, to which the Committee's proposed counsel or
12 other authorized representatives of the Committee will respond in their reasonable
13 discretion. Further, in order to facilitate recognition and ease of access for
14 creditors, the Committee further requests permission to use the Debtors' logo on
15 the Website during the period that these chapter 11 cases are active.

16 7. The Committee will not be required to provide access to information
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18 Holdings, Inc., Case No. 17-42267 (KSS) (Bankr. E.D. Mo. June 1, 2017); In re
19 Optima Specialty Steel, Inc., Case No. 16-12789 (KJC) (Bankr. D. Del. Feb. 24,
20 2017); In re Int'l Shipholding Corp., Case No. 16-12220 (SMB) (Bankr. S.D.N.Y.
21 Oct. 14, 2016); In re Constellation Enter., Case No. 16-11213 (CSS) (Bankr. D.
22 Del. July 19, 2016); In re Aéropostale, Inc., Case No. 16-11275 (SHL) (Bankr.
23 S.D.N.Y. July 12, 2016); In re Santa Fe Gold Corp., Case No. 15-11761 (Bankr. D.
Del. October 27, 2015), In re Coldwater Creek, Inc., Case No. 14-10867 (Bankr.
D. Del. July 10, 2014); In re Handy Hardware Wholesale, Inc., Case No. 13-10060
(Bankr. D. Del. Feb. 25, 2013); In re Hussey Copper Corp., Case No. 11-13010
(Bankr. D. Del. Dec. 8, 2011); In re Manistique Papers, Inc., Case No. 11-12562
(Bankr. D. Del. Nov. 28, 2011); Chef Solutions Holdings, LLC, Case No. 11-
13139 (Bankr. D. Del. Nov. 13, 2011); and Am. Safety Razor Co., LLC, Case No.
10-12351 (Bankr. D. Del. Sept. 13, 2010).

1 to any entity that has not demonstrated to the satisfaction of the Committee that it
2 holds a claim of the kind described in section 1102(b)(3) of the Bankruptcy Code,
3 nor will the Committee be required to provide information to any creditor if, in its
4 judgment, it is unduly burdensome or calls for the disclosure of Confidential
5 Information.

6 8. The Committee will consult with the Debtors in identifying
7 Confidential Information. The Committee will engage in good faith negotiations
8 with the Debtors to resolve any dispute as to whether information has been
9 properly designated as Confidential Information, but if negotiations are
10 unsuccessful, the Committee may seek the Court's assistance in resolving any such
11 dispute.

12 **BASIS FOR RELIEF REQUESTED**

13 **A. Clarification of 11 U.S.C. § 1102(b)(3)'s Scope**

14 9. Section 1103(c) of the Bankruptcy Code sets forth the primary duties
15 of creditors' committees, including, but not limited to, investigating the acts of the
16 debtor and participating in the formulation of a plan. To properly perform its
17 duties under section 1103(c), the Committee must have access to the Debtors'
18 Confidential Information. To facilitate open communication, the Debtors and the
19 Committee are, or will be, bound by certain confidentiality requirements.

20 10. Section 1102 of the Bankruptcy Code requires creditors' committees
21 to "provide access to information for creditors who (i) hold claims of the kind
22 represented by that committee; and (ii) are not appointed to the committee." 11
23

1 U.S.C. § 1102(b)(3)(A). However, because section 1102(b)(3)(A) does not contain
2 a clear definition of the scope of information that creditors' committees must make
3 available to committee members, the specific disclosure requirements of section
4 1102(b)(3)(A) remain unclear. See In re Refco Inc., 336 B.R. 187, 190 (Bankr.
5 S.D.N.Y. 2006).

6 11. The legislative history of section 1102(b)(3) also fails to provide
7 guidance on the interpretation or application of the provision. The House Report
8 merely states that:

9 the committee [must] give creditors having claims of the
10 kind represented by the committee access to information.
11 In addition, the committee must solicit and receive
12 comments from these creditors, and pursuant to court
order, make additional reports or disclosures available to
them.

13 See H.R. Rep. No. 109-31, Pt. 1, 109th Cong. 1st Sess. 87 (2005). A broad
14 reading of section 1102(b)(3) requires creditors' committees to provide access to
15 and disclose all information received in connection with the bankruptcy case
16 regardless of whether the request seeks confidential or privileged information.
17 Thus, this broad interpretation of section 1102(b)(3) creates tension between
18 debtors and creditors' committees to the extent that creditors seek access to
19 confidential or proprietary information: an overly broad reading of "section
20 1102(b)(3)(A) might . . . impose an obligation contrary to other applicable laws
21 and the [c]ommittee's fiduciary duties and hamper the [c]ommittee's performance
22 under section 1103 of the Bankruptcy Code." Refco, 336 B.R. at 190.
23

1 12. The proposed Procedures set forth herein allow the Committee to
2 satisfy its statutory obligations while safeguarding the Confidential Information
3 and Privileged Information that the Committee may receive from the Debtors in
4 the course of these cases. The statutory provision requiring creditors' committees
5 to provide unfettered access to information also impacts the attorney-client
6 privilege and work product privilege between a committee and its counsel or other
7 agents. Cf. In re Baldwin-United Corp., 38 B.R. 802, 805 (Bankr. S.D. Ohio
8 1984) (creditors' committee entitled to protection of attorney-client privilege). In
9 Refco, the court stated that "[m]aintaining confidentiality against unsecured
10 creditors generally may be necessary to preserve the committee's attorney-client
11 privilege." Refco, 336 B.R. at 197. The Refco Court further noted that "one
12 should proceed cautiously concerning the disclosure of information that could
13 reasonably have the effect of waiving the attorney-client or other privilege . . .
14 notwithstanding Bankruptcy Code section 1102(b)(3)." Id.

17 13. Given the importance of this issue, the Committee seeks clarification
18 that section 1102(b)(3) of the Bankruptcy Code does not require the Committee to
19 disseminate nonpublic Confidential Information and Privileged Information, and
20 that the Committee and its advisors are in compliance with section 1102(b)(3) of
21 the Bankruptcy Code as a result of the implementation of the Procedures.
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1 14. Various statutory provisions empower this Court to grant the relief
2 requested herein. Section 105(a) of the Bankruptcy Code states that the Court may
3 “issue any order . . . that is necessary or appropriate to carry out the provisions of
4 this title.” The relief requested herein is necessary for the Committee to fulfill its
5 statutory mandates under sections 1102(b)(3) and 1103(c) of the Bankruptcy Code.
6 Because section 1102(b)(3)(A) of the Bankruptcy Code might have a chilling
7 effect on information the Debtors may be willing to share with the Committee, or
8 on the Committee’s development of independent analysis, the Committee’s request
9 is necessary and appropriate to carry out the provisions of the Bankruptcy Code.
10

11 15. Further, section 107(b)(1) of the Bankruptcy Code provides that “[o]n
12 request of a party in interest, the bankruptcy court shall . . . protect an entity with
13 respect to a trade secret or confidential research, development, or commercial
14 information.” Section 107(b)(1) and Bankruptcy Rule 9018 empower this Court to
15 protect the Debtors’ Confidential Information from disclosure to general unsecured
16 creditors. Bankruptcy Rule 9018 (“On motion or on its own initiative, with or
17 without notice, the Court may make any order which justice requires (1) to protect
18 the estate or any entity in respect of a trade secret or other confidential research,
19 development, or commercial information . . .”).
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22 16. The requirements of sections 1102(b)(3) and 1103(c) of the
23 Bankruptcy Code must be properly balanced. The Procedures proposed herein will

1 provide a means for general unsecured creditors to contact the Committee or its
2 counsel and will provide those creditors access to information as required by
3 section 1102(b)(3). However, the Procedures also give due regard to the interests
4 of the Debtors in preventing the dissemination of Confidential Information and
5 Privileged Information to the general public.
6

7 **B. Establishing a Committee Website with KCC**

8 17. In light of widespread public and private access to the internet, the
9 Committee believes that its statutory obligations under section 1102(b)(3) of the
10 Bankruptcy Code can best be fulfilled through the maintenance of the Website,
11 which not only provides creditors with access to pleadings filed in these cases, but
12 also allows creditors to communicate in a confidential way with the members of
13 the Committee and its professionals.
14

15 18. Since the maintenance of such a Website is largely administrative in
16 nature, the estates should realize a cost savings by utilizing a qualified third party
17 to maintain the Website. Doing so will relieve the Committee's counsel and other
18 professionals of the obligation to provide commonly requested information to
19 inquiring creditors.
20

21 19. On June 18, 2019, this Court entered an order authorizing the Debtors
22 to retain KCC as its noticing agent *nunc pro tunc* to May 6, 2019 [Docket No.
23 292]. In connection with its retention, KCC has established a case-specific website

1 (<http://www.kccllc.net/astriahhealth>), dedicated to providing access to case
2 information, court documents, and notification regarding important events and
3 deadlines in these cases. The KCC website also allows interested parties to
4 download a proof of claim form and provides contact information to submit
5 questions for response.
6

7 20. If the Motion is granted, certain aspects of KCC's website will be
8 tailored to the Committee's needs (*i.e.*, to allow creditors to submit confidential
9 questions, comments and requests for access to information directly to the
10 Committee and its professionals).

11 21. Since a case-specific website has already been established, the
12 Committee believes that it is most cost-effective to have KCC assist in the
13 Committee's fulfillment of its statutory duties by providing creditors with access to
14 information in the case and by allowing creditors that are not members of the
15 Committee to communicate with the Committee and its professionals than it would
16 be to hire another agent to create and host the site.
17

18 22. Indeed, KCC has advised the Committee that it will agree to waive
19 various fees that it would typically charge in connection with the services it will be
20 rendering, including the costs associated with: (i) setting up and hosting the
21 Website, (ii) updating the case docket and claims register, and (iii) filing claims
22 online. Furthermore, the Committee, KCC, and the Debtors have agreed that the
23

1 Debtors will be billed directly for any fees and costs associated with KCC's
2 services and that neither the Committee nor its professionals, advisers or members
3 will be responsible for any such fees or costs.

4 23. If the Committee were required to select a party other than KCC, it
5 would likely result in duplication of costs and needlessly increase administrative
6 expenses. Moreover, using the same service provider minimizes the rights of
7 conflicting information being posted on multiple websites and avoids duplication
8 of expense and effort.

10 **NOTICE**

11 24. The Committee will serve this Motion in accordance with this Court's
12 *Order (A) Directing the Joint Administration of These Cases, Including the Use of*
13 *Consolidated Lists, and (B) Limiting Scope of Notice* [Docket No. 10] on: (i)
14 counsel to the Debtors, (ii) the Office of the United States Trustee, (iii) counsel to
15 the DIP Lender and the Lapis Secured Parties, (iv) the United States of America,
16 (v) the State of Washington, and (vi) parties that file with the Court requests for
17 notice of all matters in accordance with Bankruptcy Rule 2002(i).

18 25. No hearing is required on the Motion if no objection is filed within
19 twenty-four days, or July 15, 2019.
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WHEREFORE, the Committee respectfully requests that the Court enter an order, *nunc pro tunc* to the Formation Date, granting the relief requested herein and such other and further relief as the Court deems just and proper.

Dated: June 21, 2019

/s/ Jane Pearson

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*Proposed Attorneys for the Official
Committee of Unsecured Creditors*

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8 UNITED STATES BANKRUPTCY COURT
9 EASTERN DISTRICT OF WASHINGTON

10 In re:

11 Astria Health, *et al.*,¹
12 Debtors.

Lead Case No. 19-01189-11

Jointly Administered

13 ORDER GRANTING OFFICIAL
14 COMMITTEE OF UNSECURED
15 CREDITORS' MOTION FOR AN
16 ORDER ESTABLISHING
17 INFORMATION SHARING
PROCEDURES FOR COMPLIANCE
WITH 11 U.S.C. §§ 1102(b)(3) AND
1103(c), *NUNC PRO TUNC TO MAY*
24, 2019

18
19 ¹ The Debtors, along with their case numbers, are as follows: Astria Health (19-01189-11),
20 Glacier Canyon, LLC (19-01193-11), Kitchen and Bath Furnishings, LLC (19-01194-11),
21 Oxbow Summit, LLC (19-01195-11), SHC Holdco, LLC (19-01196-11), SHC Medical Center-
22 Toppenish (19-01190-11), SHC Medical Center-Yakima (19-01192-11), Sunnyside Community
Hospital Association (19-01191-11), Sunnyside Community Hospital Home Medical Supply,
LLC (19-01197-11), Sunnyside Home Health (19-01198-11), Sunnyside Professional Services,
LLC (19-01199-11), Yakima Home Care Holdings, LLC (19-01201-11), and Yakima HMA
Home Health, LLC (19-01200-11).

23 ORDER GRANTING MOTION TO ESTABLISH
INFORMATION SHARING PROCEDURES - 1

1 Upon the motion (the “Motion”)² of the Official Committee of Unsecured
2
3 Creditors (the “Committee”) of the above-captioned debtors and debtors-in-
4 possession (collectively, the “Debtors”) appointed under section 1102 of title 11 of
5 the United States Code (the “Bankruptcy Code”) in the above-captioned jointly
6 administered chapter 11 cases for entry of an order *nunc pro tunc* to the Formation
7 Date: (i) clarifying that section 1102(b)(3) of the Bankruptcy Code does not
8 require the Committee to provide access to Confidential Information or Privileged
9 Information to its non-member constituency; (ii) deeming that the Committee and
10 its advisors are in compliance with section 1102(b)(3) of the Bankruptcy Code as
11 a result of the implementation of the Procedures; and (iii) determining that no
12 additional procedures are required by the Committee beyond the proposed
13 Procedures; and due and proper notice of the Motion having been given; and no
14 other or further notice is required; and the Court has jurisdiction to consider the
15 Motion under 28 U.S.C. §§ 157 and 1334; and this is a core proceeding under 28
16 U.S.C. § 157(b)(2); and the relief requested under the Motion is in the best interest
17 of the Committee, the Debtors, their estates, and creditors, and after due
18 deliberation and sufficient cause appearing therefor,
19
20

21
22 _____
23 ² Capitalized terms not otherwise defined herein shall have the meanings ascribed
 to them in the Motion.

1 **IT IS THEREFORE ORDERED THAT:**

2 1. The Motion is granted as set forth in this Order.

3 2. The relief granted herein shall be effective *nunc pro tunc* to May 24,
4 2019.

5 3. The Committee, its professionals and advisors, and its individual
6 members and their respective representatives, advisors and counsel shall be
7 deemed in compliance with sections 1102(b)(3) and 1103(c) of the Bankruptcy
8 Code by adopting the Procedures set forth in the Motion and described below.

9 4. The Committee, its professionals and its individual members and
10 their respective representatives, shall be deemed in compliance with sections
11 1102(b)(3) and 1103(c) of the Bankruptcy Code by: (a) establishing a website (the
12 “Website”) to make information available to creditors; (b) making available on the
13 Website information regarding the chapter 11 cases, including: (i) the Petition
14 Date, the case number, and general information about the Debtors’ chapter 11
15 cases; (ii) the contact information for the Debtors’ professionals and the
16 Committee’s professionals; (iii) information regarding significant events in the
17 chapter 11 cases and relevant deadlines, including the claims bar date and any
18 pleadings that are relevant thereto; (iv) when filed with the Court, the disclosure
19 statement and plan (together with any exhibits thereto); and (v) any other
20 information that the Committee, in its sole discretion, deems appropriate, subject
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1 to the restrictions and limitations imposed by the Court; and (c) establishing and
2 maintaining an email address to allow the Debtors' general unsecured creditors to
3 send questions and comments to the Committee concerning these chapter 11 cases.

4 5. The Committee's counsel is authorized, in its reasonable discretion, to
5 communicate with the Debtors' general unsecured creditors and/or respond to their
6 information requests submitted to the email address or otherwise, on behalf of the
7 Committee.
8

9 6. The Committee may use the services of KCC to create, maintain, and
10 administer the Website without further order of the Court. KCC will bill the
11 Debtors directly for any fees, costs or other amounts owed in connection
12 therewith. Notwithstanding anything to the contrary herein or in the Committee's
13 agreement for services with KCC (the "KCC Agreement"), in no event shall the
14 Committee, its professionals, its advisers or its members be responsible for
15 payment of any fees, costs or other monetary obligations owed to KCC pursuant to
16 this Order or under the KCC Agreement.
17

18 7. Notwithstanding any construction of section 1102(b)(3) of the
19 Bankruptcy Code to the contrary, the Committee, its professionals, its individual
20 members and their respective representatives, advisors and counsel shall not be
21 required or obligated to disseminate any (i) Confidential Information, or (ii)
22 Privileged Information.
23

1 8. The Committee shall not have or incur any liability to any entity for
2 acts taken or omitted to be taken with respect to its obligations under section
3 1102(b)(3) of the Bankruptcy Code as long as the Committee and its professionals
4 have acted in compliance with the Procedures set forth herein and any
5 confidentiality agreement; provided, however, that the foregoing shall not
6 preclude or abridge the right of any creditor to move before the Court for an order
7 requiring production of other or additional information, to the extent available.
8

9 9. Nothing contained in this Order shall (i) modify or abridge
10 immunities otherwise available to the Committee or professionals employed by
11 the Committee under applicable bankruptcy or non-bankruptcy law, nor (ii)
12 modify or abridge the rights of the Debtors with respect to any Confidential
13 Information, rights under confidentiality agreements with any member of the
14 Committee or their professionals or rights under the confidentiality provisions of
15 the Committee's bylaws.
16

17 10. Nothing in this Order requires the Committee to provide access to
18 information to, or solicit comments from, any entity that has not demonstrated to
19 the satisfaction of the Committee, in its sole discretion, that it holds claims of the
20 kind described in section 1102(b)(3) of the Bankruptcy Code.
21

22 11. Nothing in this Order requires the Committee to provide information
23 to any creditor if, in its judgment, it is unduly burdensome or calls for the

1 disclosure of Confidential Information, unless directed to do so by further order
2 of the Court.

3 12. The Committee shall consult with the Debtors to the extent
4 practicable in identifying Confidential Information; provided, however, that any
5 information provided to the Committee by the Debtors marked “Confidential”
6 shall be deemed to be Confidential Information. The Committee and the Debtors
7 shall engage in good faith negotiations to resolve any dispute as to whether
8 information has been properly designated as Confidential Information, but if
9 negotiations are unsuccessful, the Committee and the Debtors may seek the
10 Court’s assistance in resolving any such dispute.
11

12 13. Nothing in this Order shall enlarge, diminish or otherwise modify the
13 obligations of the Committee or its members and/or professionals under (i) any
14 confidentiality agreement entered into with the Debtors or (ii) the confidentiality
15 provisions in the Committee’s bylaws.
16

17 14. Entry of this Order is without prejudice to the rights of the
18 Committee to seek a further order of the Court addressing any additional relief
19 concerning compliance with section 1102(b)(3) of the Bankruptcy Code.
20

21 15. Nothing in this Order shall prejudice or otherwise affect the
22 procedural rights of creditors to seek relief under section 1102(b)(3)(C) of the
23 Bankruptcy Code.

1 16. The Court shall retain jurisdiction with respect to all matters arising
2 from and related to the implementation of this Order.

3 ///End of Order///
4

5 Submitted by:

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20 *Proposed Attorneys for the Official*
21 *Committee of Unsecured Creditors*
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23