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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

THRASIO HOLDINGS, INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11840 (CMG)

(Jointly Administered)

**MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS TO FILE UNDER SEAL ITS
LETTER TO THE COURT, AND (II) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Creditors (the “Committee”) appointed in the above-captioned chapter 11 cases (the “Cases”) of Thrasio Holdings, Inc., *et al.*, the debtors and debtors-in-possession (collectively, the “Debtors”), by and through its undersigned counsel, hereby files this motion (the “Seal Motion”) for entry of an order, substantially in the form submitted concurrently herewith (the “Proposed Order”), authorizing the Committee to file under seal and redact certain portions of its letter to the court dated May 6, 2024, filed at Docket No.

¹ The last four digits of Debtor Thrasio Holdings, Inc.’s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kccllc.net/Thrasio>. The Debtors’ service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.



720 (the “Letter”). In support of this Seal Motion, the Committee respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction to consider the Seal Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b).
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory predicates for the relief requested are section 107 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 9013-1 and 9018-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”).

BACKGROUND

4. On February 28, 2024 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with this Court. Since the Petition Date, the Debtors have remained in possession of their assets and have continued to operate and manage their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
5. On March 12, 2024, the Office of the United States Trustee (the “U.S. Trustee”) appointed the Committee pursuant to section 1102 of the Bankruptcy Code.² No trustee or examiner has been appointed in these Cases.
6. The Committee filed the redacted Letter immediately prior to filing this Seal Motion. The Committee will also provide an unredacted version of the Letter to the U.S.

² See *Notice of Appointment of Official Committee of Unsecured Creditors* [Docket No. 163]. The Committee consists of the following seven members: (1) Anthony J. DeCarlo, individually; (2) Cecilio Musical Instruments, Inc.; (3) GXO Logistics Supply Chain, Inc.; (4) Mellow Militia, LLC; (5) The California Beach Co.; (6) Word Ape, LLC f/k/a ChomChom; and (7) YH Goods.

Trustee and the Debtors in advance of the Status Conference, which is scheduled for May 7, 2024, at 12:00 p.m. (ET).

RELIEF REQUESTED

7. By this Seal Motion, the Committee seeks entry of the Proposed Order (i) authorizing the Committee to file the unredacted Letter under seal and ordering that the unredacted versions of the Letter remain confidential and not be made available to anyone other than the Court, the U.S. Trustee, and the Debtors; and (ii) authorizing the Committee to redact confidential portions of the Letter that disclose sensitive commercial information and to file such redacted versions on the docket in these Cases.

BASIS FOR RELIEF

8. Certain portions of the Letter contain information that has been designated as confidential pursuant to a confidentiality agreement (the “Confidentiality Agreement”) negotiated between the Debtors and the Committee. The Debtors produced documents subject to the Confidentiality Agreement, and the Committee agreed to keep such documents confidential.

9. Moreover, section 107(b) of the Bankruptcy Code provides, in pertinent part:

On the request of a party in interest, the bankruptcy court shall...
(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information....³

10. Bankruptcy Rule 9018, in turn, explains the process by which a party-in-interest may seek relief under Bankruptcy Code section 107(b):

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information....⁴

³ 11. U.S.C. § 107(b).

⁴ Fed. R. Bankr. P. 9018; *see also* D.N.J. LBR 9018-1.

11. Once it is established that information sought to be protected can be categorized as confidential commercial information, the Bankruptcy Code does not require a party seeking protection to demonstrate cause. In fact, if information qualifies as commercial information under Bankruptcy Code section 107(b), then “the court is *required* to protect a requesting interested party and has no discretion to deny the application.”⁵ “Courts have supervisory power over their records and files and may deny access to those records and files to prevent them from being used for an improper purpose.”⁶

12. The Committee submits that certain information in the Letter falls within the scope of information that the Court may protect pursuant to Bankruptcy Code section 107(b)(1) and Bankruptcy Rule 9018. Courts in this Circuit have noted that section 107(b) is meant to shield entities from disclosure of commercial information that, if disclosed, would result in “an unfair advantage to competitors” and “cause the entity commercial injury.”⁷

13. Certain portions of the Letter contain information designated as confidential pursuant to the Confidentiality Agreement, including financial and business terms. Disclosure of such information may be detrimental to the business interests of the Debtors and would violate the Confidentiality Agreement.

14. Accordingly, the Committee requests entry of the Proposed Order authorizing it to file the unredacted Letter under seal and to file a redacted version of the Letter on the public docket in these Cases.

NO PRIOR REQUEST

⁵ *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994); accord *In re Farmland Indus., Inc.*, 290 B.R. 364, 368 (Bankr. W.D. Mo. 2003).

⁶ *In re Kaiser Aluminum Corp.*, 327 B.R. 554, 560 (D. Del. 2005).

⁷ *In re Altegrity, Inc.*, No. 15-10266, 2015 WL 10963572, at *3 (Bankr. D. Del. July 6, 2015).

15. No prior request for the relief sought in this Seal Motion has been made to this or any other court in connection with these Cases.

RESERVATION OF RIGHTS

16. The Committee reserves all its rights, claims defenses, and remedies, including without limitation, the right to seek the public disclosure of the materials under seal or currently subject to redaction.

NOTICE

17. Notice of this Seal Motion has been provided to: (a) the Debtors; (b) counsel to the Debtors; (c) the office of the United States Trustee for the District of New Jersey; (d) counsel to the DIP Agent; and (e) any other person or entity entitled to notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Committee respectfully submits that no further notice of the Seal Motion is necessary or required.

CONCLUSION

WHEREFORE, the Committee respectfully requests that this Court (i) grant the Seal Motion, (ii) enter the Proposed Order substantially in the form submitted herewith, and (iii) grant such other and further relief as the Court may deem just and proper.

Dated: May 6, 2024

/s/ James S. Carr

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| UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY | |
| Caption in Compliance with D.N.J. LBR 9004-1(b) Lorenzo Marinuzzi, Esq. (admitted <i>pro hac vice</i>) Theresa A. Foudy, Esq. (admitted <i>pro hac vice</i>) Doug Mannal, Esq. (admitted <i>pro hac vice</i>) Raff Ferraioli, Esq. (admitted <i>pro hac vice</i>) Darren Smolarski, Esq. (NJ Bar No. 307592020) MORRISON & FOERSTER LLP 250 West 55 th Street New York, New York 10019-9601 Tel: (212) 468-8000 Fax: (212) 468-7900 Email: lmarinuzzi@mofo.com tfoudy@mofo.com dmannal@mofo.com rferraioli@mofo.com dsmolarski@mofo.com James S. Carr, Esq. Connie Y. Choe, Esq. KELLEY DRYE & WARREN LLP One Jefferson Road, 2 nd Floor Parsippany, NJ 07054 Tel: (973) 503-5900 Fax: (973) 503-5950 Email: jcarr@kelleydrye.com cchoe@kelleydrye.com <i>Co-Counsel to the Official Committee of Unsecured Creditors</i> | |
| In re: | Chapter 11 |
| THRASIO HOLDINGS, INC., <i>et al.</i> , | Case No.: 24-11840 (CMG) |
| Debtors. ¹ | (Jointly Administered) |

ORDER CONCERNING REQUEST TO SEAL DOCUMENT

The relief set forth on the following page numbered two (2) is hereby **ORDERED**.

¹ The last four digits of Debtor Thrasio Holdings, Inc.'s tax identification number are 8327. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://www.kccllc.net/Thrasio>. The Debtors' service address for purposes of these chapter 11 cases is 85 West Street, 3rd Floor, Walpole, MA, 02081.

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Debtors: THRASIO HOLDINGS, INC., *et al.*

Case No. 24-11840 (CMG)

Caption of Order: ORDER CONCERNING REQUEST TO SEAL DOCUMENT

On request of the Official Committee of Unsecured Creditors to (i) file under seal an unredacted copy of its letter to the court dated May 6, 2024 filed at Docket No. 720 (the “Letter”), and (ii) publicly file the Letter with all confidential portions redacted;

And the Court having considered the request and any objection thereto, it is

- ☐ ORDERED that the request is denied and the Letter shall be deleted from the Court’s electronic filing system.
- ☐ ORDERED that the request is granted and that the Committee is authorized to file (i) the unredacted Letter under seal; and (ii) the Letter with all confidential portions redacted.