

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION  
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|                              |   |                       |
|------------------------------|---|-----------------------|
| In re:                       | ) | Chapter 11 Cases      |
|                              | ) |                       |
| TOUSA, INC., <u>et al.</u> , | ) | Case No. 08-10928-JKO |
|                              | ) |                       |
| Debtors.                     | ) | Jointly Administered  |
|                              | ) |                       |

**MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF TOUSA, INC., ET AL. TO FILE DOCUMENTS UNDER SEAL**

The Official Committee of Unsecured Creditors of TOUSA, Inc., *et al.* (the “Committee”) hereby seeks entry of an Order, in substantially the form annexed hereto as Exhibit A, authorizing the Committee to file (i) Adversary Complaint of the Official Committee of Unsecured Creditors of TOUSA, Inc., et al., dated June 9, 2009 (the “Complaint”) under seal, and to file redacted versions of the Complaint on the Court’s public docket. In support of this motion, the Committee respectfully represents and states as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1408.
3. The bases for the relief requested herein are section 107(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 5003-1(D)(2) of the Local Rules of the United States Bankruptcy Court for the Southern District of Florida (the “Local Rules”).

**Basis for Relief Requested**

4. A bankruptcy court may, upon request, “protect an entity with respect to a trade secret or confidential research, development, or commercial information.” 11 U.S.C. §107(b)(1). Bankruptcy Rule 9018 defines the procedures by which a party may move for relief under section 107(b), providing that “[o]n motion or on its own initiative, with or without notice, the court may make any order which justice requires ... to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information.” FED. R. BANKR. P. 9018. Local Rule 5003-1(D) provides that a motion seeking to file a document under seal may be filed contemporaneously with the sealed document.

5. The Parties in this action have agreed to be bound by a Stipulated Protective Order entered by this Court on August 12, 2008 (D.E.# 1591) (the “Protective Order”). The Protective Order permits producing parties to designate as “Confidential” or “Highly Confidential” certain materials that they consider confidential, proprietary, or highly sensitive.

6. The Committee seeks to refer in the Complaint to information contained in documents designated by certain producing parties as Confidential or Highly Confidential. Accordingly, the Committee is obligated pursuant to the Protective Order to file the Complaint under seal.

WHEREFORE for all of the reasons set forth above, the Committee respectfully requests entry of an Order, substantially in the form annexed hereto as Exhibit A, authorizing it to file the Documents under seal and granting such further relief as the Court deems appropriate.

Dated: June 9, 2009

Respectfully submitted,

I hereby certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A).

**STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.**

By: /s/ Patricia A. Redmond

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150 West Flagler Street  
Miami, Florida 33130  
Telephone: (305) 789-3553  
Facsimile: (305) 789-3395

-and-

We hereby certify that the undersigned attorneys are appearing pro hac vice in this matter pursuant to Court orders dated February 27, 2008 and March 3, 2008.

**AKIN GUMP STRAUSS HAUER & FELD LLP**

Daniel H. Golden (New York Bar No. 1133859)  
David M. Zensky (New York Bar No. 2176691)  
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*Co-Counsel to the Official Committee of Unsecured  
Creditors of TOUSA, Inc., et al.*

**EXHIBIT A**

[PROPOSED ORDER]

UNITED STATES BANKRUPTCY COURT  
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**ORDER GRANTING MOTION OF THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF TOUSA, INC., ET AL. TO FILE DOCUMENTS  
UNDER SEAL**

Upon consideration of the motion dated June 9, 2009, of The Official Committee of Unsecured Creditors of TOUSA, Inc., *et al.* (the "Committee") for entry of an Order authorizing the Committee to file its Adversary Complaint<sup>1</sup> under seal (the "Motion"),

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<sup>1</sup> All capitalized terms not defined herein shall have the meaning ascribed to them in the Motion (as defined below).

and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Motion is necessary pursuant to the Stipulated Protective Order entered by this Court on August 12, 2008 (D.E.# 1591), under which the producing parties have designated certain information as confidential and sensitive commercial information; and due and proper notice of the motion having been provided and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefore, it is **ORDERED** that:

1. The relief requested in the Committee's Motion is GRANTED.
2. The Committee is authorized to file the Adversary Complaint with the Court under seal, and to file redacted version of the Documents on the Court's public docket.
3. The Committee shall provide complete and unredacted versions of the Documents to the United States Trustee, the Clerk of the Court, counsel to the Debtors, and counsel to the agents for the Debtors' first and second lien facilities.
4. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

# # #

**Submitted By:**

**STEARNS WEAVER MILLER WEISSLER  
ALHADEFF & SITTERSON, P.A.**

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-and-

**AKIN GUMP STRAUSS HAUER & FELD LLP**

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*Co-Counsel to the Official Committee of Unsecured Creditors of TOUSA, Inc., et al.*

**Copy to:**

Patricia A. Redmond

*(Attorney Redmond shall upon receipt serve a copy of this Order upon all interested parties and file a certificate of service.)*