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7
8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 In re

Case No. 2:13-bk-27689-WB

Chapter Number: 11 (Jointly Administered)

12
13 COLOREP, INC.,
A California Corporation, *et al.*,

**STIPULATED QUALIFIED HIPAA
PROTECTIVE ORDER PURSUANT TO 11
U.S.C. §§ 105(a), 107(b) AND 107(c) AND
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 9018 ESTABLISHING
PROCEDURES FOR THE PROTECTION
OF CONFIDENTIAL INFORMATION
PROVIDED BY ANTHEM HEALTH
PLANS OF VIRGINIA, INC. TO AIRDYE
SOLUTIONS, LLC AND THE DEBTORS**

14 Debtor,
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16 Tax ID No. 94-3055026 (Colorep, Inc.) and
17 54-1200596 (Transprint USA, Inc.)
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22 WHEREAS, Colorep, Inc. and Transcript USA, Inc. (“Debtors), Debtors in the above-
23 captioned jointly administered bankruptcy cases (“Chapter 11 Cases”), AirDye Solutions, LLC
24 (“AirDye”), the purchaser of substantially all of the Debtors’ assets pursuant to Order entered
25 October 4, 2013, and Anthem Health Plans of Virginia,, Inc., dba Anthem Blue Cross and Blue
26 Shield (“Anthem”) are separate entities with distinct fiduciary duties which nonetheless share a
27 common interest with respect to sharing certain confidential information free from risk that any
28 such party would be required later to divulge such information to third parties; and

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1 WHEREAS, AirDye has requested that Anthem provide it with certain information, whether
2 written, oral, or electronically presented, pertaining to claims for health insurance benefit submitted
3 by certain of Debtors' employees to Anthem ("Claims Information"); and

4 WHEREAS, for the purposes of facilitating the production of the Claims Information to
5 AirDye, and in order to avoid the risk of harm posed by the public dissemination of confidential and
6 proprietary medical records and information related to medical history and treatment, the Debtors,
7 AirDye, and Anthem (collectively, "Parties") have requested and the Court hereby establishes the
8 following procedures, pursuant to 11 U.S.C. §§ 105(a), 107(b) and 107(c) and Federal Rule of
9 Bankruptcy Procedure 9018, which shall govern the production of the Claims Information by
10 Anthem to AirDye;

11 NOW THEREFORE, the Parties agree and the Court orders as follows:

12 1. AirDye is hereby granted the right to request, and Anthem is hereby authorized to
13 disclose in response to such request, the Claims Information in accordance with this Order and the
14 applicable privacy rules and regulations of the Health Insurance Portability and Accountability Act of
15 1996 ("HIPAA"), including HIPAA's privacy regulations set forth at 45 C.F.R. §§ 160, 164 ("Privacy
16 Rules").

17 2. Under HIPAA's Privacy Rules, Anthem may only disclose Protected Health
18 Information, as that term is defined in 45 C.F.R. §§ 160.103 and 164.501 ("PHI"), in judicial or
19 administrative proceedings if it receives certain "satisfactory assurances" from the receiving parties.
20 See 45 C.F.R. § 164.512(e). In order to provide "satisfactory assurances" in these Chapter 11 Cases,
21 any PHI produced by Anthem shall be designated as "Confidential" or "Confidential PHI" and shall, as
22 a result of such designation, be entitled to any and all protections afforded to such information as set
23 forth in this Order and under HIPAA's Privacy Rules. In addition, it is possible that the Parties will
24 need to produce other confidential information in the course of their discussions

25 3. Anthem may designate as "Confidential" or "Confidential PHI" any information, or
26 portion thereof, that Anthem, in good faith, determines to contain PHI or other information
27 confidential to Anthem
28

1 4. After notice to Anthem and AirDye, the Debtors may request that AirDye provide
2 them some or all of the Claims Information provided by Anthem to AirDye, in which event
3 AirDye may provide that information to the Debtors, subject to the terms and provisions of this
4 Order, and subject further to the Debtors' agreement, as evidenced by the signature of their
5 counsel on this Order, to be bound by and comply with the terms and provisions of this Order.

6 5. Unless otherwise agreed to by all of the Parties, in writing, or upon further order of
7 this Court, information designated "Confidential" or "Confidential PHI" shall be disclosed only to
8 the following persons or entities:

9 a. AirDye. or, after request, the Debtors, limited to employees of such entities
10 who are necessary to assist in the resolution of claims identified in the Claims Information or similar
11 claims made by employees of the Debtors, whether consensually through settlement or after
12 adjudication by order of the Court;

13 b. Counsel (both outside counsel and in-house counsel) for AirDye or the
14 Debtors, and such counsels' respective staff, law clerks, associates, paralegals, secretaries, and other
15 employees;

16 c. The Court and its respective staff, law clerks, paralegals, secretaries, and
17 other Court employees; and

18 d. Any other person upon agreement by all of the Parties, in writing, or upon
19 further order of this Court.

20 6. Except as otherwise allowed in paragraph 5, the Parties are expressly prohibited from
21 using or disclosing any of the Confidential PHI obtained pursuant to this Order for any purpose other
22 than in resolution of claims identified in the Claims Information or similar claims made by
23 employees of the Debtors, whether consensually through settlement or after adjudication by the order
24 of the Court

25 7. Immediately upon the conclusion of this matter, whether by adjudication or
26 settlement, the Parties are ordered either to destroy or return to Anthem any and all Confidential PHI
27 (including any copies made), in accordance with 45 C.F.R. §§ 163.502 and 164.5.12
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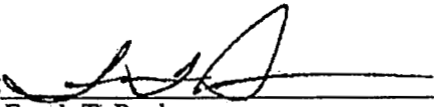
1 8. If, in the production of PHI, Anthem inadvertently discloses a document or information
2 that it believes to be protected, in whole or in part, by the attorney-client privilege, the work-product
3 doctrine, or any other applicable privilege, immunity, or protection available under the law and informs
4 the receiving party thereof, the receiving party shall immediately make prompt and reasonable efforts
5 to protect the information from further disclosure, retrieve the information from any party not entitled
6 to receive it, and return it immediately to Anthem. Inadvertent production of a privileged document or
7 information or any work-product does not constitute a waiver of such privilege or protection

8 9. Nothing in this stipulation and protective order shall be deemed to give rise to an
9 obligation under federal or state privacy law, including HIPAA, and shall not constitute an admission
10 that such law applies to the information disclosed or to be disclosed; provided, however that the
11 Debtors acknowledge and agree that paragraphs 5 and 6 of this stipulation and protective order
12 expressly apply to them and that Anthem may rely on such acknowledgment and agreement.

13 AGREED TO AND APPROVED FOR ENTRY:


14 Dated: April 15, 2014

DLA PIPER, LLC (US)

15
16 By: 
17 Frank T. Pepler
18 Attorney for AirDye Solutions, LLC

19 Dated: April 15, 2014

STUTMAN, TREISTER & GLATT
PROFESSIONAL CORPORATION

20
21 By: 
22 Gary Klausner
23 Attorney for Debtors

24 Dated: April 15, 2014

TROUTMAN SANDERS LLP

25 By: /s/ Penelope Parmés
26 Penelope Parmés
27 Attorney for Anthem Health Plans of
28 Virginia, Inc.

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5 PARK PLAZA
SUITE 1400
IRVINE, CA 92614-2545

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
5 Park Plaza, Suite 1400, Irvine, CA 92614

A true and correct copy of the foregoing document entitled (*specify*): STIPULATED QUALIFIED HIPAA PROTECTIVE ORDER PURSUANT TO 11 U.S.C. §§ 105(a), 107(b) AND 107(c) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 9018 ESTABLISHING PROCEDURES FOR THE PROTECTION OF CONFIDENTIAL INFORMATION PROVIDED BY ANTHEM HEALTH PLANS OF VIRGINIA, INC. TO AIRDYE SOLUTIONS, LLC AND THE DEBTORS will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 4/15/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Frank T Pepler
DLA Piper LLP
555 Mission St Ste 2400
San Francisco, CA 94105-2933

Gary Klausner
Stutman, Treister & Glatt
1901 Avenue of the Stars, 12th Floor
Los Angeles, CA 90067

Melanie Scott Green
Office of the United States Trustee
915 Wilshire Blvd., Suite 1850
Los Angeles, CA 90017

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 4/15/2014, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Honorable Julia W. Brand
United States Bankruptcy Court
Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street, Suite 1382 / Courtroom 1375
Los Angeles, CA 9001

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

4/15/2014

Anabel Pineda

/s/ Anabel Pineda

Date

Printed Name

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.