

David M. Posner, Esq. (Admitted *Pro Hac Vice*)

Kevin Zuzolo, Esq. (Admitted *Pro Hac Vice*)

**OTTERBOURG P.C.**

230 Park Avenue

New York, New York 10169

Telephone: 212-661-9100

Facsimile: 212-682-6104

Email: [dposner@otterbourg.com](mailto:dposner@otterbourg.com)

Email: [kzuzolo@otterbourg.com](mailto:kzuzolo@otterbourg.com)

Michael D. Warner, Esq. (TX Bar No. 00792304)

**COLE, SCHOTZ, MEISEL, FORMAN &**

**LEONARD, P.A.**

301 Commerce Street, Suite 1700

Fort Worth, Texas 76102

Telephone: 817-810-5250

Facsimile: 817-810-5255

Email: [mwarner@coleschotz.com](mailto:mwarner@coleschotz.com)

COUNSEL FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

In re	§	Chapter 11
	§	
FIBERTOWER NETWORK SERVICES	§	Case No. 12-44027-DML-11
CORP., <i>et al.</i> ,	§	
	§	(Jointly Administered)
	§	
Debtors.	§	

**THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS' MOTION TO FILE FLYNN DECLARATION UNDER SEAL**

TO: THE HONORABLE D. MICHAEL LYNN,  
UNITED STATES BANKRUPTCY JUDGE:

The Official Committee of Unsecured Creditors (the “**Committee**”) appointed in the chapter 11 cases of FiberTower Network Services Corp., *et al.* (collectively, the “**Debtors**”), by and through its undersigned co-counsel, for their Motion to File Flynn Declaration Under Seal, respectfully represent:

1. On January 8, 2014, the Committee filed its *Objection to Confirmation of the Debtors’ Second Amended Joint Chapter 11 Plan* (the “**Objection**”). The Objection is

supported by the *Declaration of Matthew F. Flynn in Support of the Objection of the Official Committee of Unsecured Creditors to the Debtors' Second Amended Joint Chapter 11 Plan* (the "Flynn Declaration"). The Flynn Declaration is based upon and discloses the terms of the Master Spectrum Lease Agreement with Vivint Wireless, Inc. (the "Vivint Agreement"). The Vivint Agreement was provided to the Committee by the Debtors on a confidential basis and designated "For Advisors' Eyes Only" pursuant to the Committee's non-disclosure agreement with the Debtors. As a result, and by this Motion, the Committee seeks to file the Flynn Declaration under seal.

2. A full and unredacted copy of the Flynn Declaration (which includes the Vivint Agreement as Exhibit A) is being delivered simultaneously to Chambers for the Court's *in camera* review.

[remainder of page intentionally left blank]

**WHEREFORE**, the Committee respectfully requests that the Court (i) grant this Motion and (ii) grant such other and further relief as may be just and proper.

DATED: January 9, 2014

By: /s/ Michael D. Warner  
Michael D. Warner, Esq. (TX Bar No. 00792304)  
COLE, SCHOTZ, MEISEL, FORMAN &  
LEONARD, P.A.  
301 Commerce Street, Suite 1700  
Fort Worth, TX 76102  
Telephone: (817) 810-5250  
Facsimile: (817) 810-5255  
Email: [mwarner@coleschotz.com](mailto:mwarner@coleschotz.com)

and

David M. Posner, Esq. (Admitted *Pro Hac Vice*)  
Kevin Zuzolo, Esq. (Admitted *Pro Hac Vice*)  
OTTERBOURG P.C.  
230 Park Avenue  
New York, NY 10169-0075  
Telephone: (212) 661-9100  
Facsimile: (212) 682-6104  
Email: [dposner@otterbourg.com](mailto:dposner@otterbourg.com)  
Email: [kzuzolo@otterbourg.com](mailto:kzuzolo@otterbourg.com)

COUNSEL FOR THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

In re	§	Chapter 11
	§	
FIBERTOWER NETWORK SERVICES	§	Case No. 12-44027-DML-11
CORP., <i>et al.</i> ,	§	
	§	(Jointly Administered)
	§	
Debtors.	§	

**ORDER GRANTING THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' MOTION TO FILE FLYNN DECLARATION UNDER SEAL**

Upon the Motion of the Official Committee of Unsecured Creditors (the “**Committee**”) appointed in the chapter 11 cases of FiberTower Network Services Corp., *et al.* (collectively, the “**Debtors**”) to File the Flynn Declaration Under Seal (the “**Motion**”); and the Court having jurisdiction to consider the matter pursuant to 28 U.S.C. §§ 157 and 1334; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A); and the Court being satisfied that the relief requested in the Motion is appropriate and in the best interest of the Debtors and their respective estates and creditors; and it appearing that sufficient notice of the Motion has been given, and that no other or further notice is required; and after due deliberation and sufficient cause appearing therefore; it is hereby:

**ORDERED**, that the Motion is granted, to the extent set forth herein; and it is further

**ORDERED**, that the Committee is hereby authorized to file the Flynn Declaration and its exhibit under seal; and it is further

**ORDERED**, the Clerk is hereby directed to file the Flynn Declaration and its exhibit under seal, and keep the same under seal until such time as the Court enters an order unsealing such documents; and it is further

**ORDERED**, that the Committee shall follow the procedures in the Court's ECF User Manual under the heading "Procedures for submission of a document [not previously provided] upon entry of order sealing document" and shall also provide a copy of the Flynn Declaration (including its exhibit), to Chambers for *in camera* review.

### END OF ORDER ###