

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
)	Case No. 10-26881 (PSH)
CORUS BANKSHARES, INC.,¹)	
)	Hearing Date: August 3, 2010,
)	11:00 a.m., C.T.
Debtor.)	

**NOTICE OF MOTION OF THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF CORUS BANKSHARES, INC.
FOR AN ORDER TO DEFINE THE SCOPE OF, AND PROCEDURES FOR,
DISCLOSURE OF INFORMATION TO UNSECURED CREDITORS, PURSUANT
TO 11 U.S.C. §§ 105(a), 107(b)(1), AND 1102(b)(3), RETROACTIVE TO JUNE 28, 2010**

PLEASE TAKE NOTICE that on **August 3, 2010 at 11:00 a.m. C.T.**, or as soon thereafter as counsel may be heard, we shall appear before the Honorable Pamela S. Hollis in Courtroom 644 in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or before any other judge who may be sitting in her place and stead, and present the attached **Motion of the Official Committee of Unsecured Creditors of Corus Bankshares, Inc. for an Order to Define the Scope of, and Procedures for, Disclosure of Information to Unsecured Creditors, Pursuant to 11 U.S.C. §§ 105(a), 107(b)(1), and 1102(b)(3), Retroactive to June 28, 2010**, at which time and place you may appear if you so desire.

PLEASE TAKE FURTHER NOTICE that any objection must be filed with the Court by **July 27, 2010 at 4:00 p.m. C.T.** and served by such time on: (a) proposed counsel to the Official Committee of Unsecured Creditors, Attn: Todd C. Meyers, Esq. and Deborah M. Gutfeld, Esq. (b) counsel to the Debtor; (c) the Office of the United States Trustee for the Northern District of Illinois, Attn: Richard C. Friedman, Esq.; (d) counsel to the indenture trustee for each of the Debtor's subordinated debentures; (e) the Securities and Exchange Commission; (f) the Internal Revenue Service; (g) the Federal Deposit Insurance Corporation; (h) the United States Attorney for the Northern District of Illinois; (i) the Civil Process Clerk,

¹ The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Corus Bankshares, Inc. (3592). The location of the Debtor's corporate headquarters and the service address for the Debtor is: 10 S. Riverside Plaza, Suite 1800, Chicago, IL 60606.

United States Attorney's Office for the Northern District of Illinois; and (j) the Attorney General of the United States, Washington, D.C.

Dated: July 19, 2010

Respectfully submitted,

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF CORUS BANKSHARES, INC.

By: /s/ Todd C. Meyers

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*Proposed Counsel for the Official
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CERTIFICATE OF SERVICE

Deborah M. Gutfeld, an attorney, certifies that on July 19, 2010, she caused the foregoing *Motion of the Official Committee of Unsecured Creditors of Corus Bankshares, Inc. for an Order to Define the Scope of, and Procedures for, Disclosure of Information to Unsecured Creditors, Pursuant to 11 U.S.C. §§ 105(a), 107(b)(1), and 1102(b)(3), Retroactive to June 28, 2010* (the "Motion") to be filed electronically. Notice of this filing was sent by operation of the Court's electronic filing system to the following parties:

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In addition, the parties listed on the attached service lists were served via electronic mail if an e-mail address is listed and via first class mail, postage prepaid, if there is no e-mail address.

Parties may access this filing through the Court's CM/ECF system.

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
)	Case No. 10-26881 (PSH)
CORUS BANKSHARES, INC.,¹)	
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Debtor.)	

**MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF CORUS BANKSHARES, INC. FOR AN ORDER TO
DEFINE THE SCOPE OF, AND PROCEDURES FOR, DISCLOSURE OF
INFORMATION TO UNSECURED CREDITORS, PURSUANT TO 11 U.S.C.
§§ 105(a), 107(b)(1), AND 1102(b)(3), RETROACTIVE TO JUNE 28, 2010**

The Official Committee of Unsecured Creditors of Corus Bankshares, Inc. (the “Committee”) submits to this Court its motion (the “Motion”) for an order defining the scope of, and procedures for, disclosure of information to those unsecured creditors that are the Committee’s constituency pursuant to 11 U.S.C. §§ 105(a), 107(b)(1), and 1102(b)(3), with such order being retroactive to June 28, 2010 (the date the Committee was appointed), and as grounds therefor, shows this Court as follows:

BACKGROUND

1. On June 15, 2010 (the “Petition Date”), Corus Bankshares, Inc. (the “Debtor” or “Corus”) filed its voluntary petition for relief under chapter 11 of Title 11, United States Code (the “Bankruptcy Code”). The Debtor is operating its businesses and managing its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. The Debtor was the direct parent of Corus Bank, N.A. (the “Bank”), its federally chartered bank subsidiary, through which Corus primarily conducted its business.

¹ The Debtor in this chapter 11 case, along with the last four digits of the Debtor’s federal tax identification number, is: Corus Bankshares, Inc. (3592). The location of the Debtor’s corporate headquarters and the service address for the Debtor is: 10 S. Riverside Plaza, Suite 1800, Chicago, IL 60606.

3. On September 11, 2009, the Office of Thrift Supervision closed the Bank and appointed the Federal Deposit Insurance Corporation (the "FDIC") as receiver. This ultimately resulted in the filing of the instant bankruptcy case. The FDIC has transferred the Bank's assets and most of its liabilities to MB Financial Bank, N.A.

4. The Debtor's primary assets now consist of tax attributes, cash, loan participations, and litigation claims.

5. On June 28, 2010, the acting United States Trustee for Region 11 appointed the members of the Committee and subsequently filed an appropriate notice of appointment [Docket No. 39]. The members of the Committee are: (i) U.S. Bank, N.A. as Indenture Trustee for Corus Statutory Trusts I, III & V; (ii) The Bank of New York Mellon Trust Company, N.A., as Indenture Trustee for Corus Statutory Trust II, IV, VI, VIII & IX; (iii) Wilmington Trust Company, as Indenture Trustee for Corus Statutory Trusts VII, X & XIII; (iv) Wells Fargo Bank, N.A., as Indenture Trustee for Corus Statutory Trust XII; and (v) Bank of America, N.A. as Indenture Trustee for Corus Statutory Trust XI.

6. The Committee has received, and anticipates that it will continue to receive, certain information, documentation, and disclosures from the Debtor. Some of the information may be of a confidential nature, and the Committee anticipates that it will continue to receive confidential information in the performance of its statutory duties. The Committee also anticipates that it may receive requests for information from creditors and parties in interest in this chapter 11 case.

JURISDICTION AND BASIS FOR RELIEF

7. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested in this Motion are sections 105(a), 107(b)(1), and 1102(b)(3) of the Bankruptcy Code.

DISCUSSION

8. The Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA") was signed into law on April 20, 2005, and most of its provisions became effective on October 17, 2005. Section 1102(b)(3) of the Bankruptcy Code, a provision added by BAPCPA, provides as follows:

A committee appointed under subsection (a) shall –

- (A) provide access to information for creditors who –
 - (i) hold claims of the kind represented by that committee; and
 - (ii) are not appointed to the committee;
- (B) solicit and receive comments from the creditors described in subparagraph (A); and
- (C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).

11 U.S.C. § 1102(b)(3).

9. Section 1102(b)(3)(A) of the Bankruptcy Code does not state how a creditors' committee should provide access to "information," and, more importantly does not describe the nature, scope, or extent of the information that a creditors' committee should provide to creditors whose collective interests it represents. Additionally, section 1102(b)(3)(B) does not indicate when it is appropriate for a creditors' committee to solicit comments from its constituency.

There does not appear to be any legislative history to section 1102(b)(3) that might provide guidance on these issues.

10. The Committee has analyzed and considered its obligations under section 1102(a) of the Bankruptcy Code and has formulated information sharing procedures that it believes comply with section 1102(b)(3) of the Bankruptcy Code and that are narrowly tailored such that they will not chill the flow of information to the Committee from the Debtor, especially with regard to confidential information related to the Debtor's finances.

11. The Committee believes that, absent an order clarifying the scope of its obligations under section 1102(b)(3) of the Bankruptcy Code, a creditor might assert that the provisions of that section require a creditors' committee to share a debtor's confidential information or information that might be subject to the attorney-client or other privilege with any creditor. The Committee does not believe that section 1102(b)(3) of the Bankruptcy Code requires such a result. However, out of an abundance of caution, the Committee has concluded that it is appropriate to establish clear procedures regarding the treatment of confidential and privileged information.

12. The Committee believes and submits that the following procedures (collectively, the "Information Sharing Procedures") are appropriate under the circumstances of this case and should be approved by this Court:

A. Sharing of Public Information.

The Committee, by and through counsel, will share with creditors any non-privileged, non-confidential or public information. Specifically,

1. The Committee, by and through counsel, will provide access to information for the Committee's constituents through the creation and maintenance of a website using internet-based technology (the "Committee Website"), which may include, but shall not be limited to, the following information:

- a. General information concerning the case, including the composition of the Committee, access to certain docket filings, and information summarizing recent proceedings, events, and public financial information;
 - b. A calendar with upcoming significant events in the case;
 - c. A general overview of the chapter 11 process;
 - d. Press releases (if any) issued by the Committee and the Debtor;
 - e. Answers to frequently asked questions, discussing, among other things, the role of the Committee, the responsibility of the Committee members, and the filing of a proof of claim;
 - f. A section providing an e-mail address to which unsecured creditors may deliver to counsel for the Committee any comments and questions about the case; and
 - g. Any other information to be posted at the direction of the Court or in the discretion of the Committee or its counsel;
2. The Committee will provide notice to general unsecured creditors of the existence of the Committee Website by mailing a post card to each non-priority unsecured creditor listed on the creditor matrix of the Debtor, which states as follows:

“Attention: You may be a creditor of Corus Bankshares, Inc. (the “Debtor”) which is currently a debtor in a chapter 11 bankruptcy case pending before the United States Bankruptcy Court for the Northern District of Illinois. The law provides that you may receive certain information about the Debtor’s bankruptcy case from the creditors’ committee appointed therein (the “Committee”). You may also provide comments about the Debtor’s bankruptcy case. Information concerning the Debtor’s bankruptcy case is available at the following website: _____. You may also request information from the Committee, and provide any comments that you may have to the Committee, in writing. Please make your written requests or comments, postage prepaid, to the following: Sameer K. Kapoor, Esq., Kilpatrick Stockton LLP, 1100 Peachtree Street, Suite 2800, Atlanta, GA 30309-4530, or via e-mail directed to skapoor@kilpatrickstockton.com. Thank you. The Official Committee of Unsecured Creditors in the chapter 11 case of Corus Bankshares, Inc.”

3. The Committee will provide such other services as required by the Court to assist the Committee in complying with the requirements of section 1102(b)(3) of the Bankruptcy Code; and

4. The Committee, by and through counsel, shall be available to parties requesting details about the status of the Debtor's chapter 11 case. Any party wishing to obtain information regarding the status of the Debtor's case may do so by accessing the Committee Website or contacting counsel for the Committee in the manner described above.

B. Sharing of Confidential and Privileged Information.

The Committee shall be deemed to have fulfilled the requirements under sections 1102(b)(3)(A) and (B) of Bankruptcy Code by doing the following: (a) if a creditor (the "Requesting Creditor") submits a written request to the Committee or counsel for the Committee for information or provides a written comment, the Committee shall be deemed to have satisfied its obligations under section 1102(b)(3) of the Bankruptcy Code if it responds to such written request within seven (7) days after receipt thereof; (b) if a Requesting Creditor submits a request to the Committee or counsel for the Committee for information or provides a comment telephonically, the Committee shall be deemed to have satisfied its obligations under section 1102(b)(3) of the Bankruptcy Code if it responds to such call within five (5) days of receipt thereof; and (c) the Committee's response, or the response of its counsel, as described in subsection (a) and (b) of this paragraph shall be sufficient if it includes information which the Committee reasonably believes satisfactory and responsive, in its good faith judgment, but need not include any Confidential Information (as defined below).

The Committee is permitted to refuse to provide information to a Requesting Creditor, because, among other things, the Requesting Creditor seeks Confidential Information or makes an unduly burdensome request, provided that the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee to discuss the matter, seek to compel such disclosure for cause pursuant to a motion before the Court, on notice to the Committee and the Debtor. Any refusal by the Committee to provide information to a Requesting Creditor shall be made in writing to the Requesting Creditor, and shall advise such Requesting Creditor of (a) its right pursuant to the immediately preceding sentence to seek to compel disclosure pursuant to a motion before the Court, on notice to the Committee and the Debtor, and (b) the fact that the Local Bankruptcy Rules of the Court include a procedure for bringing motions in urgent matters (as "emergency motions") before the Court on shortened notice, upon the request of the movant (subject, however, to the requirements and conditions of the Local Bankruptcy Rules and to the Court's approval of any shortened notice). The Committee shall provide the written advice of refusal described above in this paragraph to the Requesting Creditor in question within five (5) business days of such refusal.

Subject to the right of a Requesting Creditor as set forth in the immediately preceding paragraph hereof, the Committee shall be deemed conclusively to have fulfilled any and all duties incumbent upon it pursuant to section 1102(b)(3)(A) and (B) of the Bankruptcy Code by adhering to the terms of the two immediately preceding paragraphs. None of the Committee, its members, its counsel, or the Committee's other professionals need take any further or other steps to fulfill such statutory obligations, subject to further Court order.

The Committee, its members, the Committee's counsel and other professionals need not and shall not, without an order of the Court and/or the consent of the Debtor (which consent shall not be unreasonably withheld) disseminate confidential, proprietary, privileged or non-public information concerning the Debtor ("Confidential Information"), which Confidential Information consists of: (a) all information covered by any confidentiality agreements entered into by and among the Committee and its agents, and the Debtor and its agents, including but not limited to, any letter agreements from the Committee and its counsel to the Debtor making the Debtor third-party beneficiaries of the confidentiality provisions of the bylaws adopted by the Committee in connection with this chapter 11 case; (b) information, the disclosure of which would constitute a waiver of the attorney-client, work product or other privilege on the part of the Committee; and (c) information, the disclosure of which would violate the bylaws of the Committee (but only to the extent that such violation of the bylaws arises from a requirement set forth in the bylaws to maintain the confidentiality of (i) any information which the Committee has agreed to keep confidential pursuant to a written agreement with a third party, (ii) communications among the Committee members or between any of the Committee members and the Committee's attorneys or other professionals, or (iii) communications or information, the revelation of which would or could waive any attorney-client privilege or work product doctrine); provided, however, that if the Committee elects to disclose information of the type described in subsection (b) or (c) of this paragraph, then, so long as such disclosure would not constitute a disclosure of information described in subsection (a) of this paragraph, neither further Court order nor the Debtor's consent is required (though nothing herein requires such disclosure).

The Debtor shall assist the Committee and its professionals in identifying any Confidential Information provided by the Debtor or its agents or professionals to the Committee, its counsel, and any other professionals retained by the Committee.

C. Costs and Expenses

Any creditor who requests information from the Committee will pay to counsel for the Committee, the costs and expenses associated with providing that information to the creditor, including the costs of copying and postage. Alternatively, counsel for the Committee will provide such information to a creditor via e-mail (to the extent available and transmittable in this manner) at no charge.

D. Solicitation of Comments

The Committee may solicit comments from various creditors regarding issues or matters involved in this case at its discretion unless otherwise ordered or instructed by the Court.

13. The Information Sharing Procedures set forth above comply with section 1102 of the Bankruptcy Code and serve to protect Confidential Information shared or to be shared by creditors in the Debtor's chapter 11 case.

14. There is nothing in section 1102(b)(3) of the Bankruptcy Code itself, nor in the legislative history thereto, that gives any indication that the Committee is required to provide confidential information or privileged information to creditors that constitute the Committee's constituency. Relief similar to that sought by the Committee herein has been granted by courts in this district, including this court, as well as various bankruptcy courts in other districts. See In re Refco, Inc., 336 B.R. 187, 195-203 (Bankr. S.D.N.Y. 2006) (discussing reasons to approve similar procedures and ordering implementation of such procedures); In re Bridgeview Aerosol, LLC, Case No. 09-41021 (PSH) (Bankr. N.D. Ill. Dec. 10, 2009) (approving creditors' committee request to restrict access to confidential, privileged and non-public information); In re Sentinel Mgmt. Group, Inc., Case No. 07-14987 (JHS) (Bankr. N.D. Ill. Oct. 25, 2007) (approving creditors' committee's request to restrict access to confidential, privileged and non-public information); In re BankUnited Fin. Corp., Case No. 09-19940-LMI (Bankr. S.D. Fla. June 30, 2009) (approving creditors' committee request to restrict access to confidential, privileged and non-public information); In re NetBank, Inc., Case No. 3:07-bk-04295-JAF (Bankr. M.D. Fla. Dec. 13, 2007) (approving creditors' committee request to restrict access to confidential, privileged and non-public information); In re Werner Holding Co., Case No. 06-10578 (KJC) (Bankr. D. Del. Aug. 8, 2006) (establishing procedures and protocols for creditors' committee to disseminate the debtors' confidential or privileged information to persons who are not creditors' committee members); In re J.L. French Automotive Castings, Inc., Case No. 06-10119 (MFW) (Bankr. D. Del. Apr. 24, 2006) (granting motion of creditors' committee to approve procedures for providing access to information and for handling privileged information, confidential material and restricted confidential material of the debtors); In re Dana Corp., Case No. 06-10354 (BRL) (Bankr. S.D.N.Y. Mar. 15, 2006) (confirming official committees are not

authorized or required to provide access to confidential information of the debtors or privileged information).

15. In addition, section 107(b)(1) of the Bankruptcy Code provides that “[o]n request of a party in interest, the bankruptcy court *shall* ... protect an entity with respect to a trade secret or confidential research, development, or commercial information.” 11 U.S.C. § 107(b)(1) (emphasis added).² Section 107(b)(1) is mandatory. See Video Software Dealers Ass’n v. Orion Pictures Corp., 21 F.3d 24, 27 (2d Cir. 1994) (providing that the protections of section 107(b)(1) are mandatory upon request). As a result, under section 107(b)(1) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 9018, this Court is empowered to protect confidential information and privileged information from disclosure to general creditors.

16. The Committee believes that the proposed Information Sharing Procedures limiting the sharing of Confidential Information are appropriate in this case. The dissemination of confidential information to third parties could be problematic for the Debtor’s estate.

17. The Committee believes that if there were a risk that Confidential Information given by the Debtor to the Committee would have to be turned over to any creditor, the Debtor would be highly discouraged from giving information to the Committee. In fact, the Debtor might conclude that it could not give such information to the Committee at all. The inability of the Committee to gain access to Confidential Information, in turn, could limit the ability of the Committee to fulfill its statutory obligations under the Bankruptcy Code.

18. The relief requested in this Motion does not mean that the Committee will not be providing information to its constituents pursuant to section 1102(b)(3) of the Bankruptcy Code.

² Section 107(b)(1) is further supported by Federal Rule of Bankruptcy Procedure 9018, which provides that “[o]n 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” Fed. R. Bankr. P. 9018.

The Committee, through the proposed procedures set forth herein, will make available to creditors a variety of public information concerning the Debtor, including pleadings filed with the Court, orders entered by the Court, the Debtor's Schedules and Statement of Financial Affairs, and the Debtor's monthly operating reports. Furthermore, the Committee anticipates seeking and receiving comments from its constituents pursuant to section 1102(b)(3)(B) of the Bankruptcy Code. Of course, in addition, when and if a plan is filed in this chapter 11 case and a related disclosure statement is filed and approved by the Court, the plan proponent will provide creditors with additional material information in such disclosure statement that satisfies the requirements of section 1125(b) of the Bankruptcy Code. Therefore, notwithstanding the relief requested herein, the Debtor's creditors should have more than sufficient information to satisfy the purposes of section 1102(b)(3)(A) of the Bankruptcy Code.

19. Counsel for the Committee has consulted with counsel for the Debtor regarding this Motion. The Debtor consents to the relief requested in this Motion. Counsel for the Committee has also consulted with the United States Trustee about the relief requested in this Motion. The United States Trustee has no objection to the requested relief.

CONCLUSION

20. Therefore, pursuant to sections 105(a), 107(b)(1), and 1102(b)(3) of the Bankruptcy Code, the Committee requests that the Court authorize it to implement the Information Sharing Procedures as described in this Motion.

WHEREFORE, the Committee respectfully requests that this Court (a) grant this Motion; (b) enter an Order granting the relief requested in this Motion and thereby authorizing the Committee to implement the Information Sharing Procedures proposed herein, with such order being retroactive to June 28, 2010, the date of the Committee's appointment in this chapter 11 case; and (c) grant such other and further relief as is appropriate under the circumstances.

Dated: July 19, 2010

Respectfully submitted,

THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF CORUS BANKSHARES, INC.

By: /s/ Todd C. Meyers

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