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

In re:

THRASIO HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11
Case No. 24-11840 (CMG)
(Jointly Administered)
Re: Docket Nos. 40, 41, 42, 255, 287, 354, & 375

**SUPPLEMENTAL OBJECTION OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS
TO DEBTORS’ DISCLOSURE STATEMENT FOR THE JOINT
PLAN OF REORGANIZATION OF THRASIO HOLDINGS, INC. AND ITS
DEBTOR AFFILIATES PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

The Official Committee of Unsecured Creditors (the “Committee”) of Thrasio Holdings, Inc., *et al.* (collectively, the “Debtors”) hereby submits this supplemental objection (the

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.



“Supplemental Objection”) to the *Debtors’ Motion for Entry of an Order Approving (I) the Adequacy of the Disclosure Statement, (II) the Solicitation and Voting Procedures, (III) the Forms of Ballots and Notices in Connection Therewith, and (IV) Certain Dates with Respect Thereto* [Docket No. 42] (the “Motion”). In support of its Supplemental Objection, the Committee respectfully states as follows:

SUPPLEMENTAL OBJECTION

1. The Debtors filed an amended disclosure statement [Docket No. 375] (the “Disclosure Statement”) on April 16, 2024, two days before the hearing to approve the Motion.² The Disclosure Statement included, among other things, additional disclosures in response to the objections previously lodged to the Disclosure Statement, potential confirmation objections, as well as additional information concerning the Independent Investigation. The Committee is generally supportive of these additional disclosures. However, the Committee files this Supplemental Objection because (a) the Disclosure Statement should also contain adequate information concerning the Committee’s investigation and recommendation to general unsecured creditors to vote to reject the Plan and opt out of the releases and (b) the proposed confirmation timeline deprives the Committee of the opportunity to conduct a reasonable investigation.

A. The Disclosure Statement Lacks Adequate Information Because It Fails to Include a Description of the Committee’s Investigation or the Committee’s Recommendation on the Plan

2. The Disclosure Statement should contain an overview of the Committee’s investigation and recommendation to reject the Plan and opt out of the releases. The Bankruptcy Code provides that a creditors’ committee may “advise those represented by such committee of such committee’s determinations as to any plan formulated” 11 U.S.C. § 1103(c)(3). As the

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Disclosure Statement.

only fiduciary for general unsecured creditors in these chapter 11 cases, the nature and status of the Committee’s investigation into the Debtors’ prepetition affairs is squarely “information of a kind, and in sufficient detail . . . that would enable . . . a hypothetical investor of the relevant class to make an informed judgment about the plan.” 11 U.S.C. § 1125(a)(1). Moreover, the Committee’s views on the Plan (and the Plan’s broad releases) are highly relevant to holders of general unsecured claims and should be included in the Disclosure Statement.

3. Attached hereto as **Exhibit A** is a revised Disclosure Statement that includes the Committee’s proposed inserts and recommendation. In the event that the Debtors are unwilling to make these modifications, the Committee respectfully requests that the Court direct the Debtors to modify the Disclosure Statement to include the Committee’s comments and recommendations to general unsecured creditors.³

B. The Solicitation Package Should Include the Committee Solicitation Letter

4. As a fiduciary to the general unsecured creditors in these chapter 11 cases, the Committee believes that the inclusion in the solicitation package of a customary, stand-alone letter setting forth the Committee’s position on the Plan is appropriate. A proposed letter from the Committee is attached hereto as **Exhibit B** (the “Committee Letter”), which sets forth the Committee’s recommendation that unsecured creditors vote against Plan and opt out of the releases.

5. Inclusion of the Committee Letter in the solicitation package is warranted given the unresolved contingencies surrounding the Committee’s investigation, as well as the Independent Investigation, and the resulting potential material impact on recoveries for general unsecured

³ The Committee has shared these modifications with the Debtors, and intends to work with the Debtors to ensure their inclusion in a further amended Disclosure Statement.

creditors. General unsecured creditors must be empowered to make an informed choice, and the Committee Letter represents a vital part of that process. In the event that the Debtors are unwilling to include the Committee Letter in the solicitation package, the Committee respectfully requests that the Court require the Debtors to do so.

C. The Proposed Confirmation Schedule Must Be Extended Because It Does Not Provide Adequate Time for the Committee to Complete Its Investigation

6. The Debtors have proposed the following confirmation schedule:

Event	Date
Voting Record Date	April 1, 2024
Solicitation Mailing Deadline	April 22, 2024, which is two (2) business days after entry of the Disclosure Statement Order
Publication Deadline	April 22, 2024, which is three (3) business days after entry of the Disclosure Statement Order
Plan Supplement Filing Deadline	May 13, 2024
Voting Deadline	May 20, 2024
Plan Objection Deadline	May 20, 2024
Deadline to File Voting Report	May 21, 2024
Confirmation Brief and Confirmation Reply Deadline	May 21, 2024
Confirmation Hearing Date	May 22, 2024

The Committee does not support the expedited confirmation schedule proposed by the Debtors because it (a) fails to afford sufficient advance notice to voting classes of the findings and conclusions of the Independent Investigation and any resulting Plan modifications, and (b) materially prejudices the Committee’s ability to conduct its investigation and appropriately present any issues to the Court.

7. *First*, the solicitation procedures and confirmation timeline do not allow for sufficient notice of the findings of the Independent Investigation, thus prejudicing the rights of

unsecured creditors. The Disinterested Directors' Independent Investigation remains ongoing. *See* Disclosure Statement at Art. VI.H. The Debtors state in the Disclosure Statement that “[t]he Disinterested Directors, working with Katten, will provide the Court and constituents with the results of the Independent Investigation *prior to the hearing on confirmation of the Plan.*” *Id.* (emphasis added). This is unacceptable. As it currently stands, the Disinterested Directors will provide the results of the Independent Investigation *after* the voting deadline and confirmation objection deadline. In other words, the Debtors are asking parties to vote on the Plan and make an informed decision about the proposed releases without knowing whether and to what extent such releases are modified as a result of the Independent Investigation.

8. The Debtors allege that “[t]he outcome of the Independent Investigation could result in *material modifications to the Plan*, including, without limitation, changes to the release and exculpation provisions as well as the Indemnification Obligations.” *See* Disclosure Statement at Art. VI.H.2 (emphasis added). Thus, voting classes should be afforded sufficient time to evaluate these conclusions, and any resulting Plan modifications, before being forced to vote on the Plan and to decide whether to grant the releases. At a minimum, the Disinterested Directors should be required to file their conclusions and the rationale for such conclusions with the Court as part of the Plan Supplement, which must be filed at least seven days before the voting and objection deadline.

9. *Second*, a confirmation hearing on May 22 simply does not afford the Committee sufficient time to complete its investigation. Although the Debtors propose to give the Disinterested Directors until the confirmation hearing to complete their investigation—nearly eight months after their appointment—the Committee is being afforded just 30 days, a fraction of

that time.⁴ The Committee's concern that the proposed schedule will materially prejudice its ability to conduct its investigation cannot be overstated. As evidenced by the Debtors' modifications to the Disclosure Statement regarding the Independent Investigation and the discussion of the Investigation Topics, as well as the Committee's proposed revisions to the Disclosure Statement, there may be potential estate claims and causes of action that could materially increase general unsecured creditor recoveries.

10. For example, the Committee has uncovered serious allegations that certain former members of the Debtors' Board and management team misrepresented the Company's financial performance. A summary of these financial discrepancies is attached hereto as **Exhibit C**. Further, it has been alleged that these false financial statements and misrepresentations served to inflate the value of Thrasio's equity at a time when insiders were selling their Thrasio equity.

11. It has been alleged that former co-CEOs Joshua Silberstein and Carlos Cashman have received hundreds of millions of dollars in the aggregate on account of selling Thrasio stock at prices that may have been inflated by the false financial statements. In addition, Silberstein and Cashman also participated in the 2020 tender offer, thereby receiving tens of millions of dollars each on account of their shares of Thrasio equity purchased by the Company in the tender offer. Attached hereto as **Exhibit D** is a chart summarizing the aggregate Thrasio stock sales by Silberstein, Cashman, and their affiliated entities that the Committee has been able to identify to date.

12. The facts of these cases clearly require a full investigation by the Committee. Yet, the Debtors are asking the Court to approve a schedule that requires the production of documents,

⁴ The Disinterested Directors joined the Board in September 2023 and their counsel was engaged in December 2023.

followed by a review of such documents, followed by depositions, followed by the completion of an analysis of information obtained, followed by a demand on the Debtors to pursue any claims identified, followed by the potential preparation and prosecution of a Committee standing motion, all over the next 30 days. This is absurd.

13. Lastly, the proposed confirmation schedule does not allow sufficient time for a motion by the Committee seeking standing to pursue potentially valuable claims and causes of action that it uncovers as part of its investigation of the prepetition lenders' liens. Indeed, the Committee's deadline under the Final DIP Order to challenge any of the Debtors' stipulations to, among other things, the extent, priority, and validity of the liens and security interests that purport to secure the Debtors' first lien prepetition debt is May 11, 2024—just 11 days before the confirmation hearing. Perhaps, the Debtors are suggesting a hearing on the Committee's ability to prosecute its lien challenges is best situated after the confirmation hearing.

14. The Committee believes the confirmation schedule should be extended by at least 30 days to enable the Committee and the Disinterested Directors to carry out their investigations and to afford sufficient time for discovery regarding the Plan and confirmation, including depositions.

RESERVATION OF RIGHTS

15. The Committee has also identified a number of substantive objections to the Plan that it intends to raise at the confirmation hearing. This Supplemental Objection is submitted without prejudice to, and with a full reservation of, the Committee's rights to object to confirmation of the Plan or any other plan of reorganization proposed in these Chapter 11 Cases on any and all grounds. In addition, the Committee reserves all rights to raise additional objections and supplement this Supplemental Objection.

CONCLUSION

WHEREFORE, for all of the foregoing reasons, the Committee respectfully requests that the Court (a) enter an order (i) directing the Debtors to modify the Disclosure Statement as set forth on Exhibit A; (ii) directing the Debtors to include the Committee Letter in the solicitation materials; (iii) adjourning the confirmation schedule by 30 days; and (b) grant such other relief that the Court finds just and proper.

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Dated: April 18, 2024

Respectfully submitted,

By: *James S. Carr*

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Exhibit A

Filed Under Seal

Exhibit B

Committee Letter

RECOMMENDATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO VOTE AND REJECT THE PLAN AND OPT OUT OF THE THIRD-PARTY RELEASES

Re: *In re Thrasio Holdings, Inc., et al.* Committee Recommendation to Vote to REJECT the Plan and OPT OUT of the third-party releases under the Plan

To: Holders of Class 4 General Unsecured Claims

This recommendation is made on behalf of the Official Committee of Unsecured Creditors (the “Committee”) of Thrasio Holdings, Inc., *et al.*, the debtors in the above-referenced bankruptcy cases (the “Debtors”). The Committee was appointed on March 12, 2024 by the Office of the United States Trustee (an arm of the United States Department of Justice) to represent the interests of all unsecured creditors, including you as a Holder of a Class 4 General Unsecured Claim, in the Debtors’ Chapter 11 cases.

The Plan, as proposed, does not treat unsecured creditors fairly and equitably, and should not be confirmed. The Committee strongly urges you to vote to REJECT the Plan and OPT OUT of the third-party releases.

Item 3. Vote on Plan.

The Holder of the Claims against the Debtors set forth in Item 1 votes to (please check one):

<input type="checkbox"/> <u>ACCEPT</u> (vote FOR) the Plan	<input checked="" type="checkbox"/> <u>REJECT</u> (vote AGAINST) the Plan
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The Holder of the Claims against the Debtors set forth in Item 1 elects to:

<input checked="" type="checkbox"/> <u>OPT OUT</u> of the Third-Party Release

The Committee believes that the Plan provided to you in this Solicitation Package fails to comply with the Bankruptcy Code, and the Committee intends to vigorously object to the Plan, as currently proposed.

The Committee urges you to opt out of the third-party release. Failure to opt out of the third-party release acts to inappropriately release various non-debtors (including the Debtors’ current and former directors and officers, among others) who could be subject to potential litigation the outcome of which could benefit unsecured creditors.

If you have any questions regarding Thrasio’s bankruptcy cases, please contact counsel to the Committee at ThrasioBK@mofo.com and ThrasioKDW Counsel@KelleyDrye.com.

<p>THE COMMITTEE’S RECOMMENDATION TO YOU IS TO VOTE TO <u>REJECT</u> (VOTE AGAINST) THE PLAN AND <u>OPT OUT</u> OF THE RELEASES</p> <p>THE COMMITTEE REQUESTS YOUR SUPPORT TO SEEK BETTER TREATMENT FOR CLASS 4 GENERAL UNSECURED CLAIMS</p> <p>EVERY VOTE COUNTS</p>
--

Very truly yours,

The Official Committee of Unsecured Creditors of Thrasio Holdings, Inc., *et al.*

Exhibit C

Filed Under Seal

Exhibit D

Filed Under Seal