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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

:
: **Chapter 11**
:
: **Case No. 24-32428 (KLP)**
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**MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER AUTHORIZING
THE DEBTOR TO FILE UNREDACTED COPIES OF THE OBJECTION
OF HOPEMAN BROTHERS, INC. TO CLAIM NO. 10 OF LIBERTY
MUTUAL INSURANCE COMPANY UNDER SEAL**

Hopeman Brothers, Inc., the debtor and debtor in possession in the above-captioned chapter 11 case (“Hopeman” or the “Debtor”), by its undersigned counsel, moves the Court (the “Motion”), pursuant to sections 105(a) and 107(b)(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and *Confidentiality Agreement and Protective Order* [Docket No. 206] (the “Liberty Mutual Protective Order”), for entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”): (i) authorizing the Debtor to file the *Objection of Hopeman Brothers, Inc. to Claim No. 10 of Liberty Mutual Insurance Company* (the “Objection”) under seal; and (ii) providing that, to the extent a hearing is held related to the Objection that requires the disclosure of Liberty Mutual Protected Material (as described herein) and Liberty Mutual does not agree otherwise, the Court



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may determine at that time whether any portion of the hearing pertaining to such information be conducted *in camera*. In support of this Motion, the Debtor respectfully represents as follows:

I. Jurisdiction

1. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

II. Background

2. On June 30, 2024, the Debtor commenced this chapter 11 case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

3. On September 12, 2024, this Court entered an Order establishing November 4, 2024, as the general bar date for the filing of proofs of claim for claims other than asbestos-related personal injury claims and those belonging to governmental entities.

4. On September 13, 2024, the Court entered the Liberty Mutual Protective Order that expressly governs the production, review, disclosure, and handling of three agreements executed between Liberty Mutual Insurance Company (“Liberty Mutual”) and the Debtor and related entities – (1) Agreement for Defense and Indemnity Between Liberty Mutual Insurance Company and The Hopeman Brothers Company, dated March 22, 1990; (b) Settlement Agreement and Release Between Hopeman Brothers, Inc. and Liberty Mutual Insurance Company, dated March 21, 2023; and (c) Indemnification and Hold Harmless Agreement Between Hopeman Brothers, Inc. and Liberty Mutual Insurance Company, dated March 21, 2003 (collectively, the “Liberty Mutual Confidential Agreements”) – along with any documents and/or correspondence related directly to the Liberty Mutual Confidential Agreements and designated as “Confidential” in accordance with the Liberty Mutual Protective Order.

5. Section 4.3 of the Liberty Mutual Protective Order, governing the filing or submitting of Liberty Mutual Protected Material, provides that a party that “seeks to file any Liberty Mutual Protected Material with the Bankruptcy Court must file such Liberty Mutual Protected Material under seal.” This section further provides “all Liberty Mutual Protected Material for which a Party is requesting permission to file under seal . . . shall be filed in unredacted form in conformity with the dealing procedures set by the Clerk of the Court.”

6. In addition, with respect to the use of Liberty Mutual Protected Material in open court, section 4.4 of the Liberty Mutual Protective Order provides that counsel for any party who desires to offer or use the Liberty Mutual Protected Material “in open court shall attempt to meet and confer in good faith with the Debtor and Liberty Mutual . . .” and, absent an agreement of Liberty and the Debtor, or an Order from this Court, a party cannot offer or use Liberty Mutual Protected Material in open court unless the Liberty Mutual Protected Material is redacted and/or sealed.

7. As explained in more detail in the Objection, Liberty Mutual filed its claim number 10 (the “Claim”) on November 4, 2024, that asserts alleged claims against the Debtor based on the Liberty Mutual Confidential Agreements.

8. To support why Liberty does not have a valid claim against the Debtor and the Claim should be disallowed and expunged, the Objection quotes relevant provisions from the Liberty Mutual Confidential Agreements that are considered Liberty Mutual Protected Material. The Debtor, therefore, is required to seek the relief set forth herein under the Liberty Mutual Protective Order.

9. Contemporaneously with the filing of this Motion, the Debtor filed redacted versions of the Objection with this Court. The Debtor also delivered unredacted versions of the Objection to Liberty Mutual.

III. Request for Relief

10. The Debtor hereby requests (i) authorization to file unredacted versions of the Objection under seal and (ii) that, to the extent a hearing is held related to the Objection that requires the disclosure of Liberty Mutual Protected Material and Liberty Mutual does not agree otherwise, the Court may determine at that time whether any portion of the hearing pertaining to such information be conducted *in camera*.

IV. Basis for Relief Requested

11. Bankruptcy courts are authorized to issue orders to protect entities from potential harm caused by the disclosure of confidential information, as provided by section 107(b) of the Bankruptcy Code. In particular, section 107(b)(1) of the Bankruptcy Code provides that:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may –

- (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information

11 U.S.C. § 107(b)(1).

12. Bankruptcy Rule 9018 provides, in relevant part, that:

On 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.

13. In determining whether to grant relief under section 107(b) of the Bankruptcy Code, “[t]he court determines whether the subject documents fall within the provisions

of § 107(b) and the appropriate remedy if they do.” *In re Barney’s, Inc.*, 201 B.R. 703, 707 (Bankr. S.D.N.Y. 1996). If section 107(b) of the Bankruptcy Code applies to the documents in question, “the court is *required* to protect a requesting interested party and has no discretion to deny the application.” *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994) (citing 2 Collier on Bankruptcy ¶ 107.01 (Alan N. Resnick & Henry J. Sommer eds., 15th ed. 1993) (“Protection is mandatory when requested by an [interested party]”)); *accord In re Borders Grp., Inc.*, 462 B.R. 42, 47 (Bankr. S.D.N.Y. 2011) (“Once a court determines that a party in interest is seeking protection of information that falls within one of the categories enumerated in section 107(b), the court is required to protect a requesting party and has no discretion to deny the application.”) (citing *Orion Pictures*, 21 F.3d at 27); *Phar-Mor, Inc. v. Defendants Named Under Seal (In re Phar-Mor, Inc.)*, 191 B.R. 675, 679 (Bankr. N.D. Ohio 1995) (noting the mandatory language of 11 U.S.C. § 107(b)).

14. In the context of section 107(b)(1) of the Bankruptcy Code, “commercial information” is “information which would cause ‘an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.’” *Robbins*, 510 B.R. at 66-67 (citing *Orion Pictures*, 21 F.3d at 27). In addition, courts have identified commercial information by considering the purpose behind the statute—“to protect business entities from disclosure of information that could reasonably be expected to cause the entity commercial injury.” *Id.* (internal citations and quotation marks omitted) (upholding the filing under seal of a report describing the management of the debtor’s private practice because, like the promotion agreement filed under seal in *Orion Pictures*, if it were made public it “would put the debtor at a disadvantage vis-à-vis its competitors”) (citing *Orion Pictures*, 21 F.3d. at 27-28); *accord In re Lomas Fin. Corp.*, 1991 WL 21231, at *2 (S.D.N.Y. Feb. 11, 1991) (noting the broad scope of the term “commercial

information”); *In re Taiyo Corp.*, No. 93-41092, 1993 WL 13003867, at *2 (Bankr. S.D. Ga. Sept. 30, 1993) (applying the *Lomas* standard that “‘commercial information’, as used in section 107(b)(1), need not rise to the level of a trade secret before protection is warranted”).

15. Here, as explained above, the Objection quotes the Liberty Mutual Confidential Agreements that are considered Liberty Mutual Protected Material under the Liberty Mutual Protective Order. Furthermore, to the extent a hearing is held related to the Objection that requires the disclosure of Liberty Mutual Protected Material in connection with the Objection and Liberty Mutual does not agree otherwise, the Debtor may need to offer Liberty Mutual Protected Material in open court. Accordingly, pursuant to sections 4.3 and 4.4 of the Liberty Mutual Protective Order, the Debtor is required to seek the relief requested herein.

V. Notice

16. Notice of this Motion will be given pursuant to Local Rule 1075-1 and the procedures set forth in Article II of the “Procedures for Complex Cases in the Eastern District of Virginia.” The Debtor submits that, in light of the nature of the relief requested, no other further notice need be given.

VI. No Previous Request

17. No previous request for the relief sought herein has been made by the Debtor to this or any other court.

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WHEREFORE, the Debtor respectfully request that the Court: (i) enter the Proposed Order, granting the relief requested herein; and (ii) grant such other and further relief as the Court may deem proper.

Dated: April 30, 2025
Richmond, Virginia

/s/ Henry P. (Toby) Long, III
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Counsel for the Debtor and Debtor in Possession

EXHIBIT A

Proposed Order

HUNTON ANDREWS KURTH LLP

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Counsel for Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

HOPEMAN BROTHERS, INC.,

Debtor.

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: **Chapter 11**
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**ORDER GRANTING MOTION OF THE DEBTOR FOR ENTRY OF AN
ORDER AUTHORIZING THE DEBTOR TO FILE UNREDACTED COPIES
OF THE OBJECTION OF HOPEMAN BROTHERS, INC. TO CLAIM NO. 10
OF LIBERTY MUTUAL INSURANCE COMPANY UNDER SEAL**

This matter coming before the Court upon the *Motion of the Debtor for an Order Authorizing the Debtor to File Unredacted Copies of the Objection of Hopeman Brothers, Inc. to Claim No. 10 of Liberty Mutual Insurance Company Under Seal* (the “Motion”)¹ of the above-captioned debtor and debtor in possession (“Hopeman” or the “Debtor”), pursuant to sections 105(a) and 107(b)(1) of the Bankruptcy Code, Rule 9018 of the Bankruptcy Rules, and the Liberty Mutual Protective Order, for entry of an Order: (i) authorizing the Debtor to file the *Objection of Hopeman Brothers, Inc. to Claim No. 10 of Liberty Mutual Insurance Company* (the “Objection”)

¹ Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

under seal; and (ii) providing that, to the extent a hearing is held related to the Objection that requires the disclosure of Liberty Mutual Protected Material and Liberty Mutual does not agree otherwise, the Court may determine at that time whether any portion of the hearing pertaining to such information be conducted *in camera*; the Court having reviewed the Motion, finds that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b) and (c) notice of the Motion was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is hereby GRANTED as set forth herein.
2. The Debtor is authorized to file unredacted versions of the Objection under seal.
3. To the extent a hearing is held related to the Objection that requires the disclosure of Liberty Mutual Protected Material and Liberty Mutual does not agree otherwise, any portion of the hearing pertaining to such information be conducted *in camera*;
4. The Debtor and the Debtor's claims and noticing agent are authorized to take all actions necessary to implement the relief granted in this Order in accordance with the Motion.
5. The requirement under Local Rule 9013-1(G) to file a memorandum of law in connection with the Motion is hereby waived to the extent applicable.
6. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation of this Order.

Dated: _____, 2025
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

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Counsel for the Debtor and Debtor in Possession

CERTIFICATION OF ENDORSEMENT
UNDER BANKRUPTCY LOCAL RULE 9022-1(C)

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III

Henry P. (Toby) Long, III