

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

\_\_\_\_\_  
In re: ) Chapter 11  
          ) )  
CAFÉ HOLDINGS CORP., *et al.*, ) Case No.: 18-05837 (hb)  
          ) )  
                                  Debtors. )  
\_\_\_\_\_

**ORDER CLARIFYING THE REQUIREMENTS TO PROVIDE  
ACCESS TO CONFIDENTIAL OR PRIVILEGED INFORMATION**

Upon consideration of the *Motion of the Official Committee of Unsecured Creditors for an Order Clarifying the Requirements to Provide Access to Confidential or Privileged Information* (the “Motion”)<sup>1</sup> filed by the Official Committee of Unsecured Creditors (the “Committee”) of Café Holdings Corp., *et al.*, and it appearing that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and all other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that no other or further notice need be provided; and no objections to the Motion having been filed; and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The relief requested in the Motion is granted to the extent set forth herein.

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning given them in the Motion.

2. Pursuant to section 1102(b)(3)(A) of the Bankruptcy Code, the Committee shall not be required to provide access to any Confidential Information of the Debtors, or any other Entity, to any creditor with a claim of the kind represented by the Committee, except as provided below.

3. Pursuant to section 1102(b)(3)(A) of the Bankruptcy Code, the Committee shall not be required to provide access to any Privileged Information to any creditor with a claim of the kind represented by the Committee. Nonetheless, the Committee shall be permitted, but not required, to provide access to Privileged Information to any party so long as (a) such Privileged Information is not Confidential Information, and (b) the relevant privilege is held and controlled solely by the Committee.

4. The Committee shall implement the following protocol for providing access to information for creditors ("Creditor Information Protocol") in accordance with section 1102(b)(3)(A) and (B) of the Bankruptcy Code.

- a. Privileged and Confidential Information. The Committee shall not be required to disseminate to any entity (all references to "entity" herein shall be as defined in section 101(15) of the Bankruptcy Code, "Entity") without further order of the Court, (i) Confidential Information and (ii) Privileged Information. In addition, the Committee shall not be required to provide access to information or solicit comments from any Entity that has not demonstrated to the satisfaction of the Committee, in its sole discretion, or to the Court, that it holds claims of the kind described in section 1102(b)(3) of the Bankruptcy Code.
- b. Information Obtained Through Discovery. Any information received (formally or informally) by the Committee from any Entity in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with any formal or informal discovery in any contested matter, adversary proceeding, or other litigation shall not be governed by any order entered with respect to this Motion but, rather, by any order governing such discovery. Nothing herein shall obligate the Committee to provide any information the Committee obtains from third parties.

- c. Creditor Information Requests. If a creditor (the “Requesting Creditor”) submits a written request to the Committee (the “Information Request”) for the Committee to disclose information, pursuant to section 1102(b)(3)(A) of the Bankruptcy Code, the Committee shall, as soon as practicable, but no more than fifteen (15) days after receipt of the Information Request, provide a response to the Information Request (the “Response”), including providing access to the information requested or the reasons the Information Request cannot be complied with. If the Response is to deny the Information Request because the Committee believes the Information Request implicates Confidential Information or Privileged Information that need not be disclosed (i) pursuant to the terms of this Order or otherwise under section 1102(b)(3)(A) of the Bankruptcy Code, (ii) because such disclosure is prohibited under applicable law, (iii) because such information was obtained by the Committee pursuant to an agreement to maintain it as confidential, or (iv) that the Information Request is unduly burdensome, the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee regarding the Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion. Such motion shall be served and the hearing on such motion shall be noticed and scheduled. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting (or the Committee objecting to such request) that the Committee provide the Requesting Creditor a log or other index of any information specifically responsive to the Requesting Creditor’s request that the Committee deems to be Confidential Information or Privileged Information. Furthermore, nothing herein shall be deemed to preclude the Requesting Creditor from requesting that the Court conduct an in camera review.
- d. Release of Confidential Information of Third Parties. If the Information Request implicates Confidential Information of the Debtors (or any other Entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee may demand (the “Demand”) for the benefit of the Debtors’ creditors: (i) if the Confidential Information is information of the Debtors, by submitting a written request, each captioned as a “Committee Information Demand,” to counsel for the Debtors, stating that such information will be disclosed in the manner described in the Demand unless the Debtors object to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor and the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Demand and (ii) if the Confidential Information is information of another Entity, by submitting a written request to such Entity and its counsel of record, with a copy to Debtors’ counsel, stating that such information will be disclosed in the manner described in the Demand unless such Entity objects to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such Entity, and

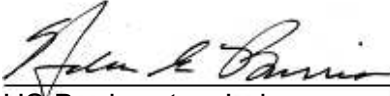
the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Demand.

5. The Committee may establish and maintain a website as described in the Motion. Nothing in this Order shall expand, restrict, affirm, or deny the right or obligation, if any, of a Committee to provide access or not to provide access, to any information of the Debtors to any party except as explicitly provided herein.

6. This Court shall retain exclusive jurisdiction to interpret and enforce the provisions of this Order in all respects and further to hear and determine all matters arising from the construction and implementation of this Order.

**FILED BY THE COURT**  
**01/11/2019**



  
US Bankruptcy Judge  
District of South Carolina

Entered: 01/11/2019

Certificate of Notice Page 5 of 6
United States Bankruptcy Court
District of South Carolina

In re:
Cafe Holdings Corp.
Debtor

Case No. 18-05837-hb
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0420-7 User: richardso Page 1 of 2 Date Rcvd: Jan 11, 2019
Form ID: pdf01 Total Noticed: 1

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on
Jan 13, 2019.

aty +Ian T. Peck, Haynes and Boone, LLP, 2323 Victory Avenue, Suite 700,
Dallas, TX 75219-7673

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

\*\*\*\*\* BYPASSED RECIPIENTS \*\*\*\*\*

NONE. TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner
shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social
Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required
by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jan 13, 2019

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email)
system on January 11, 2019 at the address(es) listed below:

- Brandon K. Poston on behalf of Creditor Committee Official Committee of Unsecured Creditors
keith.poston@nelsonmullins.com,
Stephanie.arnold@nelsonmullins.com;linnea.hann@nelsonmullins.com;joan.kishline@nelsonmullins.com;
frank.knowlton@nelsonmullins.com;shane.ramsey@nelsonmullins.com;bsandler@pszjlaw.com
Christine E Brimm on behalf of Creditor Betty B. Tyson cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Christine E Brimm on behalf of Creditor William L. Barrier cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Christine E Brimm on behalf of Creditor Robert B. Barrier cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Christine E Brimm on behalf of Creditor Joel A. Tyson cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Christine E Brimm on behalf of Creditor CGD Real Estate Tennessee, LLC cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Christine E Brimm on behalf of Creditor B&T Sand Company, Inc. cbrimm@bartonbrimm.com,
cfraser@bartonbrimm.com,bbarton@bartonbrimm.com
Craig Solomon Ganz on behalf of Creditor Store Master Funding I, LLC ganzc@ballardspahr.com,
phxdocketingbkr@ballardspahr.com,hartt@ballardspahr.com
Craig Solomon Ganz on behalf of Creditor STORE Master Funding V, LLC ganzc@ballardspahr.com,
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Daniel K Felker on behalf of Creditor Bruce Dressler dan@hucksandfelker.com,
brandy@hucksandfelker.com
David Brian Wheeler on behalf of Creditor M&R Investors, LLC davidwheeler@mvalaw.com
David Brian Wheeler on behalf of Creditor MRB, LLC davidwheeler@mvalaw.com
David Brian Wheeler on behalf of Creditor Old Mill Stream, LLC davidwheeler@mvalaw.com
Elisabetta G. Gasparini on behalf of U.S. Trustee US Trustee's Office
elisabetta.g.gasparini@usdoj.gov
Eugene B. McLeod, III on behalf of Creditor South Carolina Department of Employment and
Workforce ecf@dew.sc.gov, tmcleod@dew.sc.gov
Francesca Macchiaverna on behalf of Creditor Geoffrey S. Stutchman and Leehouang T.
Stutchman as Trustees for the Stutchman Family Trust, successors-in-interest to Store Capital
Acquisitions, LLC fmacchiaverna@huntermaclean.com, btees@huntermaclean.com
Jane H. Downey on behalf of Creditor Vandelay, LLC jane@mttlaw.com,
jessica@mttlaw.com;corey@mttlaw.com
John Timothy Stack on behalf of U.S. Trustee US Trustee's Office John.T.Stack@usdoj.gov
Mary M. Caskey on behalf of Attorney Stanley H. McGuffin mcaskey@hsblawfirm.com,
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District/off: 0420-7

User: richardso  
Form ID: pdf01

Page 2 of 2  
Total Noticed: 1

Date Rcvd: Jan 11, 2019

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system (continued)

Mary M. Caskey on behalf of Creditor STORE Master Funding V, LLC mcaskey@hsblawfirm.com,  
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Mary M. Caskey on behalf of Attorney Craig S. Ganz mcaskey@hsblawfirm.com,  
awilloughby@hsblawfirm.com;uveguilla@hsblawfirm.com;cwilliamson@hsblawfirm.com  
Michael H. Weaver on behalf of Debtor Cafe Holdings Corp. mweaver@burr.com,  
khandrock@burr.com  
Michael Kevin McCarrell on behalf of Creditor ACM Fatz VII LLC kmccarrell@foxrothschild.com,  
eaccetta@foxrothschild.com  
Randy A. Skinner on behalf of Creditor Freshpoint North Carolina, Inc.  
janice@skinnerlawfirm.com;candicem@skinnerlawfirm.com  
Reid E. Dyer on behalf of Creditor Old Mill Stream, LLC reiddyer@mvalaw.com  
Reid E. Dyer on behalf of Creditor MRB, LLC reiddyer@mvalaw.com  
Reid E. Dyer on behalf of Creditor M&R Investors, LLC reiddyer@mvalaw.com  
Robin C. Stanton on behalf of Debtor Cafe Holdings Corp. rstanton@burr.com,  
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Stanley H. McGuffin on behalf of Creditor Store Master Funding I, LLC  
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Stanley H. McGuffin on behalf of Creditor STORE Master Funding V, LLC  
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Thomas W. Bunch, II on behalf of Creditor East Forest Plaza III, LLC tbunch@bunchlawllc.com,  
awilliams@bunchlawllc.com  
Tobias G. Ward, Jr. on behalf of Creditor AAA Accurate Backflow Testing and Repair, LLC  
tw@tobywardlaw.com  
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Weyman C. Carter on behalf of Debtor Cafe Holdings Corp. wcarte@mcnair.net,  
dhayes@mcnair.net

TOTAL: 36