

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: _____ :
: _____ :
Debtor(s) : Case No. _____
: _____ :
Movant(s) : Chapter 11
: _____ :
v. : _____ :
Respondent(s) : _____ :
(If none then "No Respondent") : _____ :
:

**DEBTORS' APPLICATION PURSUANT TO 11 U.S.C. § 327(a) AND
FED. R. BANKR. P. 2014 FOR ENTRY OF AN ORDER AUTHORIZING
THE EMPLOYMENT AND RETENTION OF _____, _____ AS
ADMINISTRATIVE AGENT, *NUNC PRO TUNC* TO THE RELIEF DATE**

_____ ("_____")
and its debtor affiliates, as debtors and debtors in possession (collectively, the "***Debtors***"),
respectfully file this application (the "***Section 327 Application***"), for the entry of an order
substantially in the form attached hereto as **Exhibit A** (the "***Order***"), authorizing the employment
and retention of _____ ("Administrative Agent"), as *Administrative Agent nunc
pro tunc* to the Relief Date (as defined below). In support of the Section 327 Application, the
Debtors submit the declaration of _____, _____ (title) (the
"**_____ Declaration**") attached hereto as **Exhibit B**. A true and correct copy of
the retention agreement between the *Administrative Agent* and the Debtors (the "***Retention
Agreement***") is attached hereto as **Exhibit 1** to **Exhibit A**. In further support of this Section 327
Application, the Debtors respectfully state as follows:

Background

(1) On the _____, (the “**Relief Date**”), the Debtors filed for relief commencing chapter 11 cases for each of the Debtors. The Debtors are authorized to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of title 11 of the United States Code (the “**Bankruptcy Code**”).¹

Jurisdiction

(2) The Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

(3) Pursuant to Bankruptcy Code sections 327(a), 328(a), 330 and 331, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and W. PA. LBR 1002-9 (the “**Local Bankruptcy Rules**”), the Debtors file this Section 327 Application.

(4) Prior to filing this Section 327 Application, the Debtors filed an application under 28 U.S.C. § 156(c) for authorization to retain the *Administrative Agent* to serve as the notice and claims agent in these cases (the “**Section 156(c) Application**”). The Court approved the Section 156(c) Application on _____ [Docket No. ____] (the “**Section 156(c) Order**”).

¹Information regarding the Debtors’ business and the background of these chapter 11 cases can be found in the Declaration of _____ Pursuant to Standing Order dated _____ or W.PA LBR _____ of the Local Bankruptcy Rules for the Western District of Pennsylvania in Support of First-Day Pleadings (the “**First Day Declaration**”) filed on the Relief Date.

(5) In accordance with 28 U.S.C. § 156(c), the Section 156(c) Order was limited to authorizing the *Administrative Agent* to perform only notice and claim-related functions. However, given that the administration of these cases will require the *Administrative Agent* to perform duties beyond the distribution of notices and the processing of claims, and therefore perform duties beyond the scope authorized by 28 U.S.C. § 156(c) and the Section 156(c) Order, the Debtors have filed this Section 327 Application as a supplement to the Section 156(c) Application. For the avoidance of doubt, the *Administrative Agent* is not seeking any additional compensation pursuant to this Section 327 Application.

(6) 11 U.S.C. § 327(a) provides that a debtor, subject to the court approval may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent interest adverse to the estate, and that are disinterested persons, to represent or assist the [debtor] in carrying out the [debtor]'s duties under this title.

(7) Bankruptcy Rule 2014(a) requires that an application for retention include: [S]pecific facts showing the necessity for the employment, the name of the [firm] to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the [firm's] connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

FED. R. BANKR. P. 2014.

(8) In particular, the Debtors seek to retain the *Administrative Agent* to provide, among other things, the following bankruptcy administrative services, if and to the extent requested:

- (a) Create and maintain a publicly-accessible case administration website, _____ containing

information about the Debtors, these cases, and their restructuring, including but not limited to the posting of a claim register, key pleadings, scheduled hearings, and press releases;

- (b) Host a toll-free telephone hotline, (800) xxx-xxxx, that provides information regarding the cases;
- (c) To the extent necessary, assist with the preparation and filing of the Debtors' schedules of assets and liabilities and statement of financial affairs;
- (d) Respond to creditor inquiries via telephone, letter, e-mail or facsimile, as appropriate; Generate and provide claim reports and claim objection exhibits, as requested by the Debtors and their professionals;
- (e) Manage the preparation, compilation, and mailing of documents to creditors and other parties in interest in connection with the solicitation of a chapter 11 plan (a "*Plan*");
- (f) Manage the publication of legal notices, as requested;
- (g) Collect and tabulate votes in connection with any Plan filed by the Debtors and provide ballot reports to the Debtors and their professionals;
- (h) Generate an official ballot certification and testify, if necessary, in support of the ballot tabulation results; and
- (i) Manage any distributions made pursuant to a confirmed Plan.

Retention of Administrative Agent

(9) Although the Debtors have not yet filed their schedules of assets and liabilities, the Debtors anticipate that there will be in excess of _____ entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtors' business, the Debtors submit that the appointment of an *Administrative Agent* is both necessary and in the best

interests of both the Debtors' estates and their creditors.

(10) The *Administrative Agent* has provided administrative services in numerous cases of comparable size and complexity, including several cases which are currently pending in the United States Bankruptcy Court for the Western District of Pennsylvania. *See, e.g.,* (List cases). The *Administrative Agent's* expertise allows it to provide such services with effectiveness and efficiency.

(11) The Debtors submit that the *Administrative Agent* will provide the most cost-effective and efficient administrative service for these cases. The Debtors chose the *Administrative Agent* based on its experience, reputation and the competitiveness of its fees. Accordingly, the Debtors believe that the *Administrative Agent* is well-qualified to serve in the capacity of administrative agent, and that the *Administrative Agent's* retention in such capacity is in the best interests of the Debtors' estates and their creditors.

(12) By appointing _____ as the *Administrative Agent* in these cases, the administration of these cases will be expedited, so the Debtors and the Debtors' professionals will be relieved of handling certain administrative burdens necessary for the successful prosecution of the cases.

Compensation

(13) The *Administrative Agent* intends to apply to the Court for allowances of compensation and reimbursement of out-of-pocket expenses incurred after the Relief Date in connection with these cases, subject to Court approval and in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the guidelines established by the United States Trustee for the Western District of Pennsylvania (the "*U.S.*

Trustee”) and further orders of this Court.

(14) The *Administrative Agent* has informed the Debtors that, subject to Court approval, it will bill at its standard hourly rates, which currently are \$_____ - \$_____ for senior management, \$_____ - \$_____ for project managers, and \$_____ - \$_____ for administrative and clerical staff.

(15) The Debtors believe that these rates are consistent with market rates for comparable services. These hourly rates are subject to periodic adjustments (typically in January of each year) to reflect economic and other conditions. The *Administrative Agent* will maintain detailed records of actual and necessary costs and expenses incurred in connection with the legal services described above.

(16) The *Administrative Agent* has received an initial retainer of \$_____ from the Debtors for its services under this Section 327 Application and the Section 156(c) Application, and will apply any unused portion of that retainer first against all pre-Relief Date fees and expenses and then against the first application for fees and expenses that ___ will submit in these cases.

Disinterestedness

(17) To the best of the Debtors’ knowledge, except as disclosed in the _____ Declaration, _____(i) does not have any adverse connection with the Debtors, the Debtors’ creditors or any other party in interest or its respective attorneys and accountants, or the United States Trustee; and (ii) does not hold or represent an interest adverse to the Debtors’ estate.

(18) Based on the _____ Declaration and to the best of the Debtors' knowledge, other than in connection with these cases, neither _____ nor any employee thereof has any connection with the Debtors, their creditors, the United States Trustee or any other party in interest herein; it is a "disinterested person," as that term is defined in Bankruptcy Code section 101(14); and it does not hold or represent any interest adverse to the Debtors' estate, except as set forth herein and in the _____ Declaration.

(19) Prior to the Relief Date, the *Administrative Agent* performed certain professional services for the Debtors in accordance with the Retention Agreement. Except as set forth in Paragraph 16 above, the Debtors do not owe _____ any amount for services performed or expenses incurred prior to the Relief Date.

(20) To the extent there is any inconsistency between this Section 327 Application, the Retention Agreement, and the Order approving the Section 327 Application, the Order shall control. The *Administrative Agent* will conduct an ongoing review of its files to ensure that no conflict or other disqualifying circumstances exist or arise. If any new facts or relations are discovered, the *Administrative Agent* will supplement its disclosure to the Court.

Notice

(21) No trustee, examiner or creditors' committee has been appointed in these chapter 11 cases. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the Western District of Pennsylvania; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) _____, counsel to the agent under the Debtors' prepetition secured term loan; (d) _____, counsel to

_____ and _____;

(e) _____, counsel to _____

and _____; (f) the Internal Revenue Service; (g) the Securities

and Exchange Commission; and (h) the Federal Communications Commission. A copy of this

Motion is also available on _____'s website, at (_____).

In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, the Debtors request entry of an order, in the form annexed hereto,

(i) authorizing _____ to act as administrative agent as requested herein; and (ii) granting

the Debtors such other and further relief as is just, proper and equitable.

Dated: _____

(Counsel for the Debtor)