

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

FILED/RECEIVED

FEB 23 P 2 13

IN RE: )

APS HOLDING CORPORATION, et al. )

Debtors. )

CHAPTER 11

Case No. 98-00197 (PJW)

**FIFTH AND FINAL APPLICATION OF JAY ALIX & ASSOCIATES, CRISIS  
MANAGERS AND BANKRUPTCY CONSULTANTS TO THE DEBTORS,  
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Name of Applicant:

Jay Alix & Associates ("JA&A")

Authorized to Provide  
Professional Services to:

APS Holding Corporation, et al.

Date of Retention:

February 2, 1998

Period for which Compensation and  
Reimbursement is Sought:

February 2, 1998 through October 19, 1999

Amount of Compensation Sought as Actual,  
Reasonable, and Necessary:

\$3,725,699.75

Amount of Expense Reimbursement Sought  
as Actual, Reasonable, and Necessary:

\$283,189.51

This is JA&A's fifth and final application.

Total time expended for the preparation of this application is approximately 12 hours and the corresponding compensation is approximately \$4,360.00. This fee application was prepared in its entirety subsequent to October 19, 1999. As such, compensation for the total time incurred for preparation of this fee application is being sought in this application.

The fees set forth herein are 100% of the fees actually billed to the Debtors for which JA&A seeks Court approval. JA&A's monthly fee statements sought payment only on an interim basis for 80% of fees actually billed pursuant to the Administrative Order entered in this case.

134

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

IN RE:	)	
	)	
APS HOLDING CORPORATION, et al.	)	CHAPTER 11
	)	
Debtors.	)	Case No. 98-00197 (PJW)
	)	

**FIFTH AND FINAL APPLICATION OF JAY ALIX & ASSOCIATES, CRISIS MANAGERS AND BANKRUPTCY CONSULTANTS TO THE DEBTORS, FOR FINAL COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Pursuant to 11 U.S.C. §§ 330 and 331 and Rule 2016 of the Rules of Bankruptcy Procedure, the firm of Jay Alix & Associates ("JA&A" or "Applicant") hereby moves this Honorable Court for an order awarding it reasonable compensation from the Estate of APS Holding Corporation, et al. ("APS" or the "Debtors") for professional services rendered to APS in the amount of \$3,725,699.75 for the period commencing February 2, 1998 through and including October 19, 1999 (the "Application Period"), together with reimbursement for actual and necessary expenses in the amount of \$283,189.51 incurred during the Application Period. In support of its application ("Application"), JA&A respectfully represents as follows:

**Background**

1. JA&A has served as crisis managers and bankruptcy consultants to the Debtors in connection with their Chapter 11 case pursuant to an Order entered by this Court on February 2, 1998 (the "Retention Order") and attached hereto as Exhibit A. The Retention Order authorized JA&A to be compensated on an hourly basis and to be reimbursed for actual and necessary expenses incurred. This final fee application contains exhaustive descriptions of

the tasks undertaken by JA&A. All services for which compensation is requested by JA&A were performed for, or on behalf of, APS, the Debtors, and not on behalf of any committee, creditor or other person. Pursuant to the Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, JA&A submitted its monthly fee statements and time detail to the United States Trustee, Counsel for the Debtors, Counsel for the Unsecured Creditors' Committee, and Counsel to the Bank Group. No objections were received to any of JA&A's monthly fee statements.

2. Pursuant to the Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, JA&A previously filed with the Court the following:

<b>Application Period</b>	<b>Fees</b>	<b>Expenses</b>
First Interim Fee Application for the time period February 2, 1998 through May 31, 1998	\$727,532.00	\$61,948.00
Second Interim Fee Application for the time period June 1, 1998 through September 30, 1998	\$778,396.00	\$56,394.15
Third Interim Fee Application for the time period October 1, 1998 through January 31, 1999	\$1,112,062.75	\$100,593.80
Fourth Interim Fee Application for the time period February 1, 1999 through May 31, 1999	\$555,160.50	\$30,111.15

3. No objections were made to the First, Second, Third, and Fourth Interim Fee Applications previously filed with this Court.

4. At the time of its filing, APS Holding Corporation, et al., a public company, was the third largest warehouse distributor of automotive parts to associated jobbers and company-owned stores in the United States. APS averaged approximately \$835 million in annual sales during the two years preceding the February 2, 1998 bankruptcy petition. The efforts of JA&A, working collectively with other constituents in this case, resulted in

significant benefits to the Debtors' estates, culminating in the confirmation of a Plan of Reorganization recommended by both the Bank Group and Unsecured Creditors' Committee and the establishment of a Liquidation Trust and Plan Administrator to oversee the liquidation of the estates' remaining assets.

### Services Rendered During the Application Period

3. Attached hereto as Exhibit B is a summary of the time spent and the fees charged by each professional for APS during the period covered by this Application. Each of the First, Second, Third, and Fourth Interim Fee Applications previously filed by JA&A with this Court contained detailed time billings for each JA&A professional for the time period covered by such application and JA&A respectfully requests the incorporation of such information by reference. Daily time logs describing the time expended by each professional for the remaining fifth interim period commencing June 1, 1999 through and including October 19, 1999 are included as Exhibit C.

We segregated our detailed time billings for consulting services into 12 categories, as follows:

<u>Category</u>	<u>General Description of Services</u>
<b>Wind-down Planning and Supervision</b>	Work related to winding down the affairs of the Debtors.
<b>Managing the Company</b>	Directing all company operating activities.
<b>Work Relating to Plan of Reorganization and Disclosure Statement</b>	Development of Plan of Reorganization and Disclosure Statement.
<b>Lending Group Work</b>	All work relating to communications with the Lending Group.
<b>Bankruptcy Case Issues</b>	Work relating to bankruptcy issues, including preparation of documents for presentation to Court, usually in conjunction with Counsel.

<u>Category</u>	<u>General Description of Services</u>
<b>Work Relating to Asset Sales</b>	Work relating to responding to or initiating contact with potential buyers of assets and follow-up activities following the closing of asset sales.
<b>CFO Duties</b>	Various tasks associated with Peter D. Fitzsimmons' serving as Chief Financial Officer, from July through December 1998, at which time this responsibility was transferred to Rebecca A. Roof. Many of Mr. Fitzsimmons' and Ms. Roof's activities have been included in other time description categories.
<b>Work with Vendors</b>	Analysis of the accounts of and communication with individual suppliers of products and services to the Company.
<b>CEO Duties</b>	Various tasks associated with Bettina M. Whyte's serving as Chief Executive Officer of the Company, as outlined in the JA&A engagement letter of February 2, 1998.
<b>Creditors' Committee Work</b>	All work relating to communications with the Creditors' Committee.
<b>Monitoring Company Performance</b>	Comparison of Company performance against established benchmarks and reporting results to Lending Group and Creditors' Committee.
<b>Preference Analysis</b>	Analysis of payments made by Debtors in the 90-day period immediately prior to the commencement of the Debtors' Chapter 11 cases.

The amount of time spent by category is outlined on Exhibit F.

4. JA&A, by and through those professionals set forth on Exhibit B, has performed numerous services for the Debtors. A brief biographical sketch of each professional with more than ten hours charged to this case is attached as Exhibit D. The collective efforts of JA&A working with other constituents in this case have resulted in significant benefits to the Debtors, including the following:

A. Wind-down Planning and Supervision

- Prepared comprehensive work plan, including delegation of responsibilities.
- Identified opportunities and timing for cost reductions.
- Supervised headcount reduction projections.
- Supervised plan for real estate disposition.
- Prepared budget.
- Supervised preparation of computer model to manage payroll costs.
- Implemented and supervised account and note receivable compromise and collection plan.
- Developed modifications to retention program to ensure employee stability through the wind-down period.
- Transitioned post-confirmation activities to Liquidation Trustee and Plan Administrator.

B. Managing the Company

- Conducted weekly operating meetings with senior and mid-level executives of APS.
- Initiated and implemented accelerated store and Distribution Center closure plan to conserve cash.

- Executed strategic plan for business and led development and implementation of specific tactical initiatives undertaken by key managers.
- Continued to revise organizational structure, including promotion and termination of executive level personnel.
- Closely supervised maintenance of revised incentive compensation program, including vacation, severance and incentive bonuses tied to metrics, as well as a stay bonus plan.
- Began development of detailed wind-down implementation plan encompassing legal, operational, employee-related, financial, etc. issues to ensure maximization of recovery to the estate.

C. Work Relating to Plan of Reorganization and Disclosure Statement

- Worked with Debtors' counsel to draft Plan of Reorganization and Disclosure Statement.
- Negotiated with secured and unsecured creditors in class designation and treatment.
- Plan of Reorganization recommended by both the Bank Group and Unsecured Creditors Committee was successfully confirmed in October 1999.

D. Lending Group Work

- Communicated with Lending Group and its legal and financial advisors on a regular basis.
- Promptly responded to requests for additional information and modification of financial projections.
- Prepared daily, weekly and monthly monitoring reports for Lending Group, discussed with lenders and professionals by telephone.
- Prepared financial information and assumptions to support numerous court motions requiring Lender Group approval and negotiated such approval.
- Successfully negotiated multiple extensions to DIP lending agreements.

E. Bankruptcy Case Issues

- Prepared various documents and information for Court, with assistance of counsel.
- Prepared for potential testimony in Court.
- Complied with reporting requirements of the Court.
- Completed analysis of priority and secured claims. Coordinated filing of motions for objections as necessary.



F. Work Relating to Asset Sales

- Directed asset divestiture program for Distribution Centers and stores, including extensive negotiation, preparation and execution of purchase and sale agreements.
- Qualified and met with many potential asset purchasers.
- Supervised postclosing activities, including purchase price trueups and other matters as provided for in sale agreements.
- Directed the process of the disposition of all remaining real estate, accounts receivable, notes receivable, furniture and fixtures, and investments.
- Developed a plan for the internal liquidation of remaining excess inventory, resulting in far greater recoveries for the estate than external liquidation procedures would have yielded.

G. CFO Duties

- Peter D. Fitzsimmons performed the duties of CFO through December 1998, at which time this responsibility was transferred to Rebecca A. Roof.
- Managed day-to-day financial, auditing and cash flow activities of company.
- Improved financial controls to ensure protection and preservation of value of estate assets.

- Developed reliable cash forecasting and performance monitoring indicators.
- Served as key contact with Lending Group and Creditors' Committee with respect to all financial and many operating activities at Company and as to the negotiation of amendments to the DIP loan agreement.
- Responsible for all coordination of tax and audit work with PricewaterhouseCoopers.

H. Work with Vendors

- Continued to communicate with all key vendors during post-petition period.
- Negotiated with all product suppliers (more than 100 vendors) to ensure continued product flow at acceptable service levels to customers.
- Executed payment of valid reclamation claims over period of time, with Court approval.
- Directed the process of the analysis and reconciliation of and reimbursement requests for postpetition overpayments, uncredited returns, rebates, and other incentive payments due, and other pending amounts due to the Debtors' estates from its suppliers.
- Coordinated the commencement of litigation against suppliers who continued to refuse to reimburse the Debtors' estates for

postpetition overpayments, uncredited returns, rebates, and other incentive payments due, and other pending amounts due to the Debtors' estates from its suppliers.

I. CEO Duties

- Bettina M. Whyte assumed role as Chief Executive Officer of APS.
- Managed or oversaw all day-to-day operating and financial activities of APS.
- Managed communication with all creditor constituencies and their designated professionals, keeping controversy to a minimum.
- Presented key company issues and recommended decisions to Board of Directors.
- Interviewed and selected investment bankers to be retained by the Debtors.
- With assistance from the Blackstone Group, managed and negotiated the rapid sale of numerous Distribution Centers and stores on a going concern basis, resulting in the preservation of over 1,000 jobs and yielding proceeds to the Debtors' estates of more than \$180 million.
- Coordinated activities of Debtors' professionals, including the filing of appropriate motions before this Court.
- Participated in negotiations between Lenders and Creditors' Committee regarding recoveries under a Plan of Reorganization.

- Directed development of a consensual Plan of Reorganization which was successfully confirmed in October 1999.
- Managed communications with all constituencies as related to the sales transactions and other major events.

J. Creditors' Committee Work

- Communicated with the Creditors' Committee, its members and its legal and financial advisors.
- Prepared and delivered monthly performance reports to Committee.
- Responded to Committee's numerous requests for additional information and analyses.

K. Monitoring Company Performance

- Compared actual operating results against specified benchmarks to ensure achievement of financial and value recovery targets.
- Reported monitoring results to Lenders and Unsecured Creditors' Committee.

L. Preference Analysis

- Supervised entry of data needed to perform a payment analysis in the 90-day period immediately prior to the commencement of the Debtor's Chapter 11 cases.
- Provided a payment analysis to the Unsecured Creditors' Committee and Lending Group.

5. The total time spent by JA&A from February 2, 1998 through and including October 19, 1999 in its representation of the Debtors was 10,137.27 hours. The hours spent by JA&A charged at the firm's standard hourly billing rates total a fee due for services rendered in the amount of \$3,725,699.75. As shown by this Application and the supporting documents, JA&A spent its time economically on essential tasks which could not or would not be performed by employees of the Debtors without unnecessary duplication of efforts by JA&A.

6. The services performed by JA&A have all been necessary for the proper operation of the Debtors' business, including serving as both the Debtors' CEO and CFO. This Application includes time during which consultation was required within and among the professionals of JA&A in this case. This consultation time is critical to the efficient management of an estate of this size to prevent duplication of effort, to heighten the general level of sophistication and knowledge of all of the firm professionals involved, and to develop an effective and efficient team of professionals. Such consultation permits the sharing of knowledge and factual information at considerable cost savings to the Debtors. Moreover, given the scope of the Debtors' operations, the case simply could not be handled without a great deal of teamwork.

7. It is the policy of JA&A to charge its clients for travel time and to work on client matters while traveling. However, that portion of travel during which it was not feasible to work on client matters has been excluded from this Application. Therefore, in accordance with Local Order #32 of this Court, JA&A has voluntarily excluded from this Application all travel time incurred during the Application Period, totaling 947.2 hours and \$352,125.00 in fees.

8. In addition, JA&A has incurred out-of-pocket expenses in the amount of \$283,189.51<sup>1</sup> for the period February 2, 1998 through October 19, 1999 and requests reimbursement thereof. A summary of disbursements is attached hereto as Exhibit E. It is JA&A's standard policy to charge its clients for certain expenses incurred in connection with that client's case. The expenses charged to clients include, among other things, telephone charges, facsimile charges at 50¢ per page, photocopying charges at 10¢ per page, travel expenses, and expenses for "working meals."

#### Compensation

9. The Court was informed that APS paid a retainer to JA&A in the amount of \$175,000 in conjunction with its engagement of JA&A as documented in a letter agreement dated January 20, 1998. As of the date of the filing of this Application, the retainer balance was at \$149,508.58. It is the intention of JA&A to apply this retainer against the final fees awarded by this Court to JA&A at the conclusion of this case.

10. JA&A submits that its fees and expenses are reasonable in light of the magnitude, complexity and duration of this proceeding.

11. In accordance with the factors promulgated in 11 U.S.C. § 330, the amounts requested in the Application Period are fair and reasonable given (a) the complexity of this case, (b) the time expended, (c) the nature and extent of the services rendered, (d) the value of such services, and (e) the cost of comparable services other than in a case under this title.

12. All services for which compensation is requested by JA&A were performed for, or on behalf of APS, and not on behalf of any committee, creditor or other person.

---

<sup>1</sup> This amount includes \$2,000 as an estimate of expenses for Rebecca Roof's attendance at the fee hearing in January, 2000.

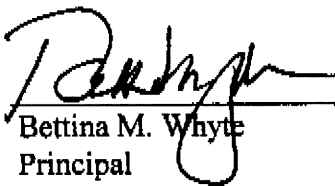
13. There is no agreement or understanding between APS and any other person, other than principals of JA&A, for the sharing of compensation to be received for services rendered in this case.

WHEREFORE, JA&A prays that allowance of the proposed order, attached hereto as Exhibit G, be made allowing payment in the sum of \$3,725,699.75 as compensation for necessary professional services rendered to APS and payment be authorized in the sum of \$283,189.51 for reimbursement of actual and necessary costs and expenses incurred for the period of February 2, 1998 through and including October 19, 1999, as follows:

	<u>Fees</u>	<u>Expenses</u>
First Interim	\$ 727,532.00	\$ 61,948.00
Second Interim	778,396.00	56,394.15
Third Interim	1,112,062.75	100,593.80
Fourth Interim	555,160.50	30,111.15
Fifth Interim	<u>552,548.50</u>	<u>32,142.41</u>
Total	\$3,725,699.75	\$283,189.51
Amounts Paid as of 11/30/99	2,977,071.40	281,189.51
Retainer Offset	<u>149,508.58</u>	<u>---</u>
Balance	<u>\$ 599,119.77</u>	<u>\$ 2,000.00</u>

JAY ALIX & ASSOCIATES

Dated: 12/10/99

By:   
Bettina M. Whyte  
Principal  
575 Fifth Avenue  
New York, NY 10017  
(212) 490-2500