

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

IN RE: §
§
APS HOLDING CORPORATION, ET AL., § CASE NO. 98-00197 (PJW)
§ Chapter 11
DEBTORS. §

FILED/RECEIVED

**COVER SHEET FOR
FIFTH INTERIM APPLICATION OF WEIL, GOTSHAL & MANGES LLP AS CO-
ATTORNEYS FOR THE STATUTORY COMMITTEE OF UNSECURED CREDITORS
FOR INTERIM ALLOWANCE OF COMPENSATION FOR PROFESSIONAL
SERVICES RENDERED AND FOR REIMBURSEMENT OF ACTUAL AND
NECESSARY EXPENSES INCURRED FROM JUNE 1, 1999
THROUGH OCTOBER 29, 1999; AND FINAL APPLICATION FOR ALLOWANCE OF
COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE PERIOD
FEBRUARY 13, 1998 THROUGH OCTOBER 29, 1999**

Name of Applicant: Weil, Gotshal & Manges LLP

Authorized to Provide
Professional Services to: Statutory Committee of Unsecured Creditors

Date of Retention: February 13, 1998

Period for which compensation
and reimbursement are sought: 5th Interim (06/01/99 - 10/29/99) Final (02/13/98 - 10/29/99)

Amount of compensation sought
as actual, reasonable, and necessary: 5th Interim - \$85,898.50; Final \$1,338,876.65

Amount of expense reimbursement sought
as actual, reasonable, and necessary: 5th Interim \$9,913.37; Final \$124,581.65

This is a: 5th interim and ✓ final application

The total time expended, during the total compensation period, for the preparation of this application and all prior applications is approximately 119 hours and the corresponding compensation to be requested is approximately \$31,730.00.

If this is not the first application filed, disclose the following for each prior application:

Date Filed	Period Covered	Requested Compensation	Requested Expenses	Approved Compensation	Approved Expenses
07/02/98	02/13/98-05/31/98	\$548,506.00	\$48,859.79	N/A	N/A
11/03/98	06/01/98-09/30/98	\$335,262.00	\$30,134.52	N/A	N/A
03/24/99	10/01/98-01/31/99	\$170,065.00	\$27,719.37	N/A	N/A
07/22/99	02/01/99-05/31/99	\$ 74,563.50	\$ 7,954.60	N/A	N/A

12/10

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APS HOLDING CORPORATION, ET AL.,	§	CASE NO. 98-00197 (PJW)
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DEBTORS.	§	

**FIFTH INTERIM APPLICATION OF WEIL, GOTSHAL & MANGES LLP
AS CO-ATTORNEYS FOR THE STATUTORY COMMITTEE OF
UNSECURED CREDITORS FOR INTERIM ALLOWANCE OF
COMPENSATION FOR PROFESSIONAL SERVICES RENDERED AND
FOR REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES INCURRED
FROM JUNE 1, 1999 THROUGH OCTOBER 29, 1999; AND FINAL APPLICATION
FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES
INCURRED FOR THE PERIOD FEBRUARY 13, 1998 THROUGH OCTOBER 29, 1999**

TO THE HONORABLE PETER J. WALSH,
UNITED STATES BANKRUPTCY JUDGE:

Weil, Gotshal & Manges LLP ("WGM") (a limited liability partnership including professional corporations), attorneys for the statutory committee of unsecured creditors of APS Holding Corporation, et al. ("Debtors"), files this fifth application ("Fifth Application") for interim allowance of compensation for services rendered by WGM from June 1, 1999 through October 29, 1999 (the "Fifth Compensation Period") and reimbursement of actual and necessary expenses incurred during the Fifth Compensation Period pursuant to sections 330 and 331 of title 11 of the United States Code ("Bankruptcy Code"), Rule 2016 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), the Administrative Order Under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals ("Administrative Order"), the Guidelines adopted by the Executive Office for the United States Trustees, and this Court's Administrative Order #32 ("Local Order"), and final application for allowance of compensation and reimbursement of expenses

("Final Application") for the period February 13, 1998 through October 29, 1999 (the "Final Compensation Period"), and respectfully represents as follows:

I. BACKGROUND

1. On February 2, 1998 ("Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

2. On February 13, 1998, pursuant to section 1102 of the Bankruptcy Code, the United States Trustee for the District of Delaware ("U.S. Trustee") appointed a statutory committee of unsecured creditors ("Committee").

3. Pursuant to an order dated March 9, 1998, the Court approved the Committee's retention of WGM, effective *nunc pro tunc* to February 13, 1998. A true and correct copy of this order is attached hereto as Exhibit A.

II. INTERIM COMPENSATION REQUESTED

4. Section 330 of the Bankruptcy Code allows a court to award an attorney (i) "reasonable compensation for actual, necessary services" rendered by an attorney, or any paraprofessional employed by the attorney, based on "the nature, the extent, and the value of such services" and taking into account factors such as the "time spent on such services" and whether the services were necessary and beneficial to the estate, and (ii) "reimbursement for actual, necessary expenses." 11 U.S.C. § 330.

5. By this Application and in accordance with section 330 of the Bankruptcy Code, WGM requests an interim allowance of \$95,811.87 for the Fifth Compensation Period, representing \$85,898.50 as compensation for professional services rendered during the Fifth Compensation Period and \$9,913.37 as reimbursement for actual and necessary expenses WGM incurred during the Fifth Compensation Period.

6. During the Fifth Compensation Period, in accordance with the Administrative Order, WGM has previously submitted monthly billing statements to the Debtors requesting payment of charges and expenses in the aggregate of \$95,811.87. Such requests included requests for payment of \$68,718.80 or 80% of WGM's charges for professional services rendered during the Fifth Compensation Period and \$9,913.37 or 100% of WGM's actual and necessary expenses incurred during the Fifth Compensation Period. As of the filing of this Fifth Application, WGM has received payments from the Debtors for the Fifth Compensation Period in the aggregate of \$78,632.17 (including \$68,718.80 in fees and \$9,913.37 in expenses). In addition, in accordance with the Administrative Order, \$17,179.70 or 20% of WGM's charges for professional services during the Fifth Compensation Period remain outstanding and an aggregate of \$245,678.60 or 20% of WGM's charges for professional services from the inception of the case remain outstanding.

7. This is WGM's fifth interim application for compensation in this case. WGM's first, second, third and fourth interim applications for compensation are pending.

8. Other than payments in accordance with the Administrative Order, WGM has received no payment and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Fifth Application. There is no agreement or understanding between WGM and any other person, other than members of the firm, for the sharing of compensation to be received for services rendered in this case.

9. WGM's charges for professional services rendered in these cases are billed in accordance with WGM's existing billing procedures. The rates WGM charges for the services rendered by its professionals and paraprofessionals in these chapter 11 cases are the

same rates WGM charges for professional and paraprofessional services rendered in comparable nonbankruptcy related matters and are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable non-bankruptcy cases in a competitive national legal market.

10. WGM submits that this Fifth Application complies with section 330 of the Bankruptcy Code, the Bankruptcy Rules, the Guidelines adopted by the Executive Office for the United States Trustees, the Administrative Order and the Local Order.

A. Time Records

11. The time records for the Fifth Compensation Period are attached hereto as Exhibits B, C, D, E and F, and are incorporated herein by reference. These records contain daily time logs (sorted by month and arranged by project or work codes) describing the professional services rendered and the time expended by each attorney and paraprofessional for this period. WGM submits that the time entries substantially comply with the following guidelines: (a) no lumping of time, (b) each activity description includes the type of activity, and (c) each activity description includes the subject matter.

B. Summary Of Services

12. During the Fifth Compensation Period, the Committee has primarily focused on issues related to the disposition of the Debtors' assets, negotiations regarding consensual plan terms, analyzing potential claims and causes of action of the estate, and reviewing and negotiating plan documents. WGM rendered professional services in furtherance of these activities including, inter alia, (a) participating in several Committee conference calls, (b) reviewing, analyzing and advising the Committee regarding the terms of the proposed plan and related plan documents, (c) negotiating with the Debtors and their postpetition lenders

regarding plan terms and plan documents, and (d) reviewing, researching, analyzing and advising the Committee regarding possible claims and causes of action against various third parties. Due to the size of this case and the scope and number of matters handled by WGM during the Compensation Period, WGM's attorneys have conferred with one another and with the Committee's other professionals to avoid duplication of effort and to maximize the efficiency of the Committee's representation.

13. The following is a summary of certain of the significant professional services rendered by WGM during the Compensation Period. This summary is organized in accordance with WGM's internal system of project or work codes. Exhibits B, C, D, E and F provide a more detailed description of the services provided, as well as a summary of the hours and fees for each project or work code.

a. Creditors' Committee Issues/Communications (Work Code W261)

(i) Prepared for and participated in conference calls with the Committee. Reviewed reports from, and conferred with, Ernst & Young in connection therewith.

b. General Business (Work Code W310)

(i) Reviewed financial information regarding the Debtors, including wind-down budgets.

c. Asset Dispositions (Work Code W420)

(i) Reviewed, analyzed and advised the Committee regarding various asset sales and procedures for future asset sales.

d. Avoidance Actions/Property Recovery/Other Litigation and Bank Group Litigation (Work Codes W430 and W460)

(i) Reviewed, researched, analyzed and advised the Committee regarding possible claims and causes of action against various third parties, including, but not limited to, potential avoidance actions.

(ii) Negotiated further extensions of the answer date in the litigation against the prepetition lenders.

e. Plan Negotiation (Work Code W640)

(i) Continued dialogue with the Debtors and the Debtors' postpetition lenders regarding liquidating plan terms and plan documents, including proposed liquidating trust agreement. Conferred and advised the Committee with respect thereto.

f. General Case Strategy (Work Code W710)

(i) Reviewed recent pleadings filed by the Debtors and prepared executive summaries of same for the Committee.

(ii) Advised the Committee regarding general case strategy.

14. WGM submits that the foregoing services were necessary to the administration of this Chapter 11 case, necessary and beneficial to the estate at the time at which such services were rendered, and were performed without unnecessary duplication of effort or expense. WGM's request for compensation for the foregoing services is reflective of a reasonable and appropriate amount of time expended in performing such services commensurate with the complexity, importance and nature of the problem, issue or task involved.

15. The Committee selected WGM as its attorneys because of the firm's extensive general experience and knowledge and, in particular, its recognized expertise in the field of debtors' and creditors' rights and business reorganizations under Chapter 11 of the Bankruptcy Code. WGM has one of the preeminent business reorganization practices in the country and enjoys a national reputation for its expertise in financial and bankruptcy reorganizations and restructurings for retailers, commercial manufacturers and other entities, with approximately 70 attorneys specializing in this area of practice. WGM has actively been involved in major Chapter 11 cases throughout the country including, *inter alia*, (a) the representation of committees in Ames Department Stores, Atlantic Computer Systems, Inc.,

Discovery Zone, E-II Holdings Inc., Harrah's Jazz Co., Heathcote Associates, IFRB (InterFirst) Bank, JWP, Inc., Lomas Mortgage USA Inc., National Bancshares, National Gypsum, New Valley Corporation, Regal Communications Corp., Tak Communications, Inc., and Texas American Bankshares, and (b) the representation of debtors in Best Products Co., Inc., The Circle K Corporation, Edison Brothers Stores, Inc., Global Marine Inc., Jayhawk Acceptance Corporation, MCorp Financial, Inc., R.H. Macy & Company, Inc., and Weiner's Stores, Inc. As a consequence, WGM brings to this case a high level of expertise and experience which inures to the benefit of the Committee and the Debtors' estates.

16. While several attorneys at WGM have performed services on behalf of the Committee within their specialized areas of expertise, the vast majority of services have been performed by one partner and one associate in WGM's Business Finance and Restructuring Department. Jeff Tanenbaum of WGM's Business Finance and Restructuring Department has been the principal partner responsible for the rendition of professional services to the Committee during the Compensation Period and has expended substantial time in connection with this Chapter 11 case. WGM has staffed the matter with a small core group of professionals to ensure efficiency and minimization of costs.

C. Actual And Necessary Expenses

17. Attached hereto as Exhibits B, C, D, E and F, and incorporated herein by reference, are detailed descriptions of the actual and necessary expenses incurred by WGM in connection with its representation of the Committee during the Fifth Compensation Period. As set forth on Exhibits B, C, D, E and F, WGM seeks reimbursement of actual and necessary expenses incurred by WGM during the Fifth Compensation Period in the aggregate amount of \$9,913.37.

18. With respect to these expenses, WGM charges \$0.20 per page for internal copying charges, at the provider's cost for external copying charges, at the provider's cost for computer research, and \$1.00 per page for outgoing facsimiles. Further, the long distance telephone charges include actual long-distance carrier charges for outgoing facsimile transmissions. WGM does not charge for incoming facsimile transmissions. The basis for these rates is WGM's calculation of the actual cost of these expenses.

III. FINAL COMPENSATION

19. By this Application, WGM requests final allowance of \$1,338,876.65 for the Final Compensation Period, representing \$1,214,295.00 as compensation for professional services rendered during the Final Compensation Period and \$124,581.65 as reimbursement for actual and necessary expenses of WGM incurred during the Final Compensation Period.

A. Time Records

20. With the exception of the time records attached hereto as Exhibits B through F for the Fifth Compensation Period, the time records for the Final Compensation Period are attached to the previously filed interim fee applications and are incorporated herein by reference. In addition, with the exception of the schedule of actual and necessary expenses attached hereto as Exhibits B through F for the Fifth Compensation Period, the schedule of actual and necessary expenses incurred for the Final Compensation Period are attached to the previously filed interim fee applications and are incorporated herein by reference.

IV. SUMMARY OF SERVICES

21. During the Final Compensation Period, the Committee was substantially involved in virtually every aspect of the case. WGM rendered professional services in furtherance of these activities including, *inter alia*, (a) negotiating essential issues relating to

post-petition trade credit and post-petition supplying of goods and services to the Debtor; (b) negotiated reclamation payment plan; (c) reviewing, analyzing and negotiating terms of the Debtors' postpetition financing, including the "roll-up" of the Debtors prepetition indebtedness to their prepetition lenders into the postpetition financing facility; (d) investigating, researching and ultimately commencing an adversary proceeding (Adversary Proceeding No. A98-274) challenging the "roll-up" and the extent, validity and priority of the prepetition lenders' prepetition claims and their liens related thereto; (e) addressing various retention issues regarding both the Debtors and the Committee's professionals; (f) responding to various pleadings filed by the Debtors and other parties in interest; (g) participating in numerous Committee meetings and conference calls; (h) reviewing, analyzing and advising the Committee regarding proposed asset sales; (i) reviewing, analyzing and advising the Committee regarding Debtors' retention incentive plan and interposing an objection thereto; (j) reviewing, researching, analyzing and advising the Committee regarding exit strategies; (k) negotiating with the Debtors and Bank Group regarding consensual disposition of sale proceeds and other assets; (l) negotiating with the Debtors and their postpetition lenders regarding consensual plan terms, including the terms and provisions of a liquidation trust agreement; and (m) reviewing, researching, analyzing and advising the Committee regarding possible claims and causes of action against various third parties.

V. CONCLUSION

WHEREFORE WGM respectfully requests (i) interim allowance of \$95,811.87 for the Fifth Compensation Period, consisting of \$85,898.50 as compensation for professional services rendered during the Fifth Compensation Period and \$9,913.37 as reimbursement for actual and necessary expenses WGM incurred during the Fifth Compensation Period; (ii) final

allowance of \$1,338,876.65 for the Final Compensation Period consisting of \$1,214,295.00 as compensation for professional services rendered during the Final Compensation Period and \$124,581.65 as reimbursement for actual and necessary expenses WGM incurred during the Final Compensation Period; (iii) authorization for the Debtors to pay WGM any such sums which remain outstanding in the amount of \$245,678.60; and (iv) for such other and further relief as is just.

Dated: December 8, 1999

Respectfully submitted,

By: 

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