

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_X  
In re:

ALLIANCE ENTERTAINMENT  
CORP., et al.,

Debtor.  
\_\_\_\_\_X

Chapter 11

Case No. 97 B 44673 (BRL)

(Jointly Administered)

WILDE SAPTE  
Special United Kingdom Counsel to the  
Official Committee of Unsecured  
Creditors

Hearing Date: April 1, 1998  
10:00 a.m.  
Application Period: 24/09/97 -  
27/02/98

Fees Sought	£22,316.66
Expenses Sought	£431.48
Avg. Hourly Rate for Interim Fee Application	£193.33
Total Fees Sought*	£22,316.66
Total Expenses Sought	£431.48

**ALL MATTERS**

<b><u>Name of Professionals</u></b>	<b><u>Year Admitted</u></b>	<b><u>Hours</u></b>	<b><u>Rates (£)</u></b>	<b><u>Total (£)</u></b>
Mark B Andrews <sup>1</sup>	1976	39.30	300.00	11,850.00
John Hull <sup>2</sup>	1979	0.25	275.00	114.58
Paul Lester <sup>2</sup>	1988	1.10	275.00	320.83
Susan Moore <sup>3</sup>	1995	57.30	160.00	9,200.00
Patricia Umunna <sup>4</sup>	N/A	10.00	75.00	750.00
Jonathan Quie <sup>4</sup>	N/A	1.05	75.00	81.25
<b>TOTALS</b>		94.35	193.33	£22,316.66

- 
1. Senior Partner
  2. Partner
  3. Associate Solicitor
  4. Trainee Solicitor

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ALLIANCE ENTERTAINMENT CORP., :  
et al. : Case No. 97 B 44673 (BRL)  
Debtors. : (Jointly Administered)  
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**FIRST APPLICATION OF WILDE SAPTE, SPECIAL UNITED KINGDOM COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF ALLIANCE ENTERTAINMENT CORP., ET AL., FOR INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES**

TO: THE HONORABLE BURTON R LIFLAND,  
UNITED STATES BANKRUPTCY JUDGE

Wilde Sapte, Special United Kingdom Counsel to the Official Committee of Unsecured Creditors (the "Committee") of the Alliance Entertainment Corp. ("Alliance") and its 14 direct and indirect subsidiaries (collectively with Alliance, the "Debtors") in the above-captioned chapter 11 cases, submits this first application (the "First Application") for the allowance and award of interim compensation for legal services rendered to the Committee and payment of client charges incurred in connection with those services for the period September 24, 1997 through February 27, 1998 (the "Application Period"),<sup>1</sup> pursuant to sections 330 and 331 of 11 U.S.C. Sections 101 et seq. (as amended, the "Bankruptcy Code"), and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). In support of the Application, Wilde Sapte respectfully states as follows:

**PRELIMINARY STATEMENT**

Wilde Sapte were instructed on 24 September 1997 through Schulte

<sup>1</sup> Although Wilde Sapte understands that this Court has issued an order setting forth certain time parameters for purposes of filing fee applications in these cases, Wilde Sapte respectfully requests that, given the time and expense involved in submitting an additional fee application to this Court, those requirements be waived since Wilde Sapte has completed its work in these cases and does not believe it will rendering any further services herein.

Roth & Zabel LLP ("SR&Z"), Counsel to the Committee of the Debtors, to act as Special United Kingdom Counsel to the Committee of Debtors. Wilde Sapte were requested to start work prior to an order being obtained from the court authorising their retention as Special United Kingdom Counsel as there was a considerable degree of urgency in connection with the work that Wilde Sapte were instructed to carry out.

In particular, as set forth in greater detail in subsequent sections of this First Application, during the Application Period, Wilde Sapte performed services for the Committee to determine whether an attack could be made upon the security and/or the guarantees in favour of the Chase Manhattan Syndicate of banks entered into by the Castle Group of Companies. These services include without limitation, (i) advising the Committee upon the validity, priority and extent of the security held by the Chase Manhattan Syndicate of Banks over the shareholdings in and assets of the Castle Group of Companies, (ii) considering and advising upon the validity of the various guarantee obligations entered into by the Castle Companies in order to determine whether an attack could be made upon the Castle security/guarantees in the context of Chapter 11 proceedings, (iii) analysing the corporate structure for the Castle Group and the structure of the security entered into, (iv) ensuring that there were no technical objections to the validity of the various security documents, (v) investigating the circumstances surrounding the execution of the security and advising whether, under English law, they were supported by adequate commercial justification, (vi) considering whether there were any special grounds upon which the charges could be attacked to the extent that they were charges over copyright interests, (vii) investigating and advising upon the effect of Section 151 of the Companies Act 1985 upon the security.

By this First Application, Wilde Sapte seeks interim compensation for legal services rendered and reimbursement of expenses incurred on behalf of the Committee during the Application Period. The value of such fees in accordance with

Wilde Sapte's standard hourly rate is £22,316.66 and the total amount of expenses is £431.48. Wilde Sapte respectfully suggests that payment and reimbursement of these amounts is fully warranted given the actual and necessary services rendered to the Committee as described in this First Application.

### **FACTUAL BACKGROUND**

1. The Debtors are a fully integrated independent music company which create, market and distribute their proprietary content rights consisting of both new artists and catalogue product in several genres. The Debtors are also the largest US full service distributor of pre-recorded music and music-related products through both traditional and emerging retail channels.

2. The Debtors' proprietary products group consists of two primary labels: Castle and Concord. Each of these labels specialises in particular genres of music and releases records under a number of label imprints. The Debtors' distribution operation is now being conducted through its one stop group specialising in the wholesale distribution of substantially all available pre-recorded music products as well as music produced by independent labels. The Debtors have ceased operating and began liquidating INDI, their independent distribution subsidiary, which specialised in the marketing, promotions and distribution of pre-recorded music manufactured by independent labels.

3. On July 14, 1997 (the "Filing Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the Bankruptcy Code. Pursuant to sections 1107 and 1108 of the Bankruptcy Code, the Debtors thereafter continued in the possession of their respective properties and in the management and operation of their respective businesses as debtors-in-possession. These chapter 11 cases have been consolidated for procedural purposes only.

4. On July 23, 1997, the Office of the United States Trustee for the Southern District of New York (the "United States Trustee") appointed the

Committee. The Committee consists of eleven members, and is broadly representative of the unsecured creditors in these cases. Along with the Committee, the Chase Manhattan Bank ("Chase"), as agent bank for the Debtors' prepetition bank lenders (the "Prepetition Lenders") and as agent bank for the bank lenders (the "DIP Lenders") under the Debtors' debtor-in-possession financing facility (the "DIP Facility"), and the unofficial committee of the Debtors' secured trade vendors (the "Unofficial Committee") have assumed an active role in these cases. No trustee or examiner has been appointed in these cases.

### **JURISDICTION**

5. This court has jurisdiction over this First Application pursuant to 28 U.S.C. Sections 157 and 1334, and the "Standing Order of Referral of Bankruptcy Cases to Bankruptcy Judges", dated July 10, 1984, issued by District Court Judge Robert T. Ward. This is a core proceeding under 28 U.S.C. Section 157(a) and (b) as set forth in 28 U.S.C. Section 157(b)(2)(A). Venue of these cases and this First Application is proper pursuant to 28 U.S.C. Sections 1408 and 1409.

### **STATUTORY BASIS FOR COMPENSATION**

6. The statutory predicates for the relief sought herein are Sections 330 and 331 of the Bankruptcy Code, as supplemented by Bankruptcy Rule 2016. Pursuant to Sections 330 and 331 of the Bankruptcy Code, Wilde Sapte seeks compensation for actual, necessary professional services rendered and for reasonable expenses incurred on behalf of the Committee during the Application Period.

7. Section 330(a)(1) of the Bankruptcy Code provides for the award to attorneys of:

- (1) reasonable compensation for actual, necessary services rendered by such attorney,... and by any paraprofessional persons employed by such attorney; and
- (2) reimbursement for actual, necessary expenses.

8. Section 330(a)(3)(A) of the Bankruptcy Code provides that, in determining the amount of reasonable compensation to be awarded, the Court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including (i) the time spent on such services; (ii) the rates charged for such services; (iii) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under title 11; (iv) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and (v) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11. Wilde Sapte satisfies all of the foregoing standards in its request for compensation.

9. Congress intended that attorneys be compensated at the market rate for comparable services in non-bankruptcy cases. The policy and intention of Section 330(a) is to ensure that qualified lawyers will not be discouraged from bankruptcy practice.

10. The Court's examination of the reasonableness of services rendered must be based upon the applicant's contemporaneous time records. Section 330(a)(1) requires only that the services rendered were actual and necessary.

#### **WILDE SAPTE AND ITS BILLING PRACTICES**

11. Wilde Sapte is a firm of English solicitors engaged in the general practice of law with offices in London, Brussels, Paris, Tokyo, Hong Kong and New York. Wilde Sapte is a full service law firm having more than 300 lawyers with a wide ranging practice in the substantive areas of, inter alia, insolvency, creditors' rights, banking, property, corporate, employment, pensions, tax, litigation and aviation finance and regulation. Wilde Sapte represents clients who are involved in transactions in the

United Kingdom and globally. The firm is committed to maintaining the highest standards of professional excellence and requires outstanding credentials of its professionals.

12. Wilde Sapte enjoys an international reputation for, inter alia, its expertise in the field of insolvency and work-outs and it has been and continues to be actively involved on behalf of its clients in many large and complex insolvency cases. Wilde Sapte's extensive experience includes the representation of debtors, trustees, secured and unsecured creditors, and other interested parties in cases in England and Wales and globally.

13. Mark Andrews is the Senior Partner of Wilde Sapte and is the head of the firm's insolvency and workouts practice. He is the partner who is principally responsible for Wilde Sapte's role as Special United Kingdom Counsel to the Committee. John Hull and Paul Lester are both partners of Wilde Sapte, being an intellectual property expert and a corporate law expert respectively. Susan Moore is the associate solicitor who has carried out much of the day-to-day administration of this matter, under Mark Andrews' supervision. Patricia Umunna and Jonathan Quie are both trainee solicitors in the firm's insolvency group who have undertaken full company searches and other researches to establish necessary criteria exist in relation to the borrowing powers of certain Castle companies.

14. Wilde Sapte assigns standard hourly billing rates to its professionals. Wilde Sapte charges its nonbankruptcy clients the same standard hourly billing rate for similar services. Wilde Sapte's time charges for its solicitors are believed to be standard for and competitive with law firms of comparable size and sophistication in London.

15. In accordance with this Court's Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases (the "Local Guidelines ") and the Executive Office for U.S. Trustees' Guidelines for Reviewing

Applications for Compensation and Reimbursement of Expenses filed under 11 U.C.S. Sections 330 and 331 (the "Executive Guidelines"), a cover page of this First Application includes a schedule of all partners, associate solicitors and trainee solicitors of Wilde Sapte who rendered services to the Committee during the Application Period, showing their respective hourly billing rates and the total hours expended by each in connection with these cases. Annexed hereto as Exhibit A is an Affidavit of Certification by Mark B Andrews, Senior Partner of Wilde Sapte, as required by Section A of the Local Guidelines and Section II.E of the Executive Guidelines.

16. The solicitors and trainee solicitors of Wilde Sapte maintain detailed daily records of their time concurrently with the rendition of professional services. Annexed hereto as Exhibit B are summary schedules and copies of Wilde Sapte's contemporaneous time records (the "Time Records"), which reflect the work performed and the time spent on each task by each Wilde Sapte professional during the Application Period. The details of each activity and project that require Wilde Sapte's time and attention are set forth in the Time Records in accordance with requirements of the Local Guidelines and Executive Guidelines.

17. Annexed hereto as Exhibit C is a summary schedule and copies of Wilde Sapte's detailed itemised records of client charges incurred on behalf of the Committee during the Application Period.

#### **SUMMARY OF LEGAL SERVICES RENDERED**

18. The general areas in which Wilde Sapte rendered professional services to the Committee broken down by a billing category and accompanied by summaries of the services performed for the Committee are as follows:

##### **(I). Preliminary Work**

19. Wilde Sapte took instructions through SR&Z, carried out a conflict check, reviewed the draft application papers seeking authorisation of Wilde Sapte's



appointment as Special United Kingdom Counsel, drafted an affidavit of disinterestedness, submitted the same to SR&Z in draft and agreed the form of the same by telephone, finalised the affidavit, swore and delivered the affidavit and briefed junior staff.

20. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 4 hours 40 minutes, the value of which is £1,365, with respect to the preliminary work billing category.

**(II). Corporate Structure/Security Structure**

21. Wilde Sapte undertook and considered full company searches for all 14 of the Castle Group companies. Wilde Sapte produced company profiles for all of the active Castle subsidiary companies and reviewed the lending facilities and security "bibles" received from Clifford Chance (which were lengthy), and analysed the corporate and security structures. From this, Wilde Sapte produced structure charts.

22. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 26 hours 35 minutes, the value of which is £3,625, with respect to the corporate structure/security structure billing category.

**(III). Commercial Justification/Unlawful Assistance**

23. Wilde Sapte researched the circumstances surrounding the creation of the security and participated in lengthy conference calls with Alliance representatives, and prepared notes of information derived from the conference calls. Wilde Sapte also attended by telephone upon Norton Rose (UK solicitors representing the Castle Group who had been involved in the creation of the security structure), and identified the financial assistance problem. Wilde Sapte carried out all necessary legal research, producing a paper on the English law affecting the commercial justification issue, and corresponded with SR&Z.

24. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 21 hours 50 minutes, the value of which is £5,068, with respect to the commercial justification/unlawful assistance billing category.

**(IV). Lien check formalities**

25. Wilde Sapte checked that, in relation to the guarantees and security granted by the Castle Group of Companies, all formalities of execution and registration had been complied with. Wilde Sapte also checked the availability for each relevant company of all necessary powers to borrow and secure its borrowings.

26. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 3 hours 40 minutes, the value of which is £693, with respect to the lien cheque formalities billing category.

**(V). Charges over copyright**

27. Wilde Sapte (at the request of SR&Z) established that there were no additional specialist grounds upon which charges over copyright interests could be attacked (in other words, there were no special registration formalities).

28. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 55 minutes, the value of which is £264, with respect to the charges over copyright billing category.

**(VI). Production of Report**

29. Wilde Sapte produced a draft report and appendices, to summarise its findings, and submitted the draft report to SR&Z and discussed it with them. Following these discussions, Wilde Sapte made a number of final amendments and additions and submitted the final report to SR&Z.

30. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 16 hours, the value of which is £3,563, with respect to the production of report billing category.

**(VII). Unlawful Assistance/White-wash procedure check**

31. After delivery of the report to SR&Z, further telephone conversations with Norton Rose alerted Wilde Sapte to the possibility that the statutory white-wash procedure may have been handled in a deficient manner, in which case there may have been grounds upon which the Castle companies could deny validity of the charges and/or the guarantees. Wilde Sapte checked the details of the procedural compliance, discovered certain defects and considered their materiality. Wilde Sapte considered the conflicts in English law concerning the effect of procedural non-compliance and advised SR&Z of the same in writing.

32. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 18 hours 15 minutes, the value of which is £3,811, with respect to the unlawful assistance/whitewash procedure cheque billing category.

**(VIII). General review**

33. Wilde Sapte attended SR&Z further by telephone and Mark Andrews of Wilde Sapte met James Peck of SR&Z in London to review the position generally and to hand over the advice upon the unlawful assistance and white-wash procedure and to discuss the likely future requirement for UK legal assistance.

34. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 2 hours 40 minutes, the value of which is £800, with respect to the general review billing category.

**(IX). Fee Application**

35. Wilde Sapte liaised with SR&Z as to the timing and way in which it should apply to this Court for interim compensation and reimbursement of its expenses. Wilde Sapte produced draft documentation necessary for this application for the comments of SR&Z. Wilde Sapte then finalised these documents and Mark Andrews of Wilde Sapte swore the Affidavit of Certification. Thereafter, Wilde Sapte, liaised with

SR&Z in relation to appearance at the hearing.

36. As shown by Exhibit B, during the Application Period, Wilde Sapte worked 15 hours 5 minutes, the value of which is £3,125, with respect to the fee application billing category.

### **REIMBURSEMENT OF EXPENSES**

37. Wilde Sapte maintains detailed records of client charges which are accumulated on behalf of its clients. In connection with its representation of the Committee during the Application Period, Wilde Sapte accumulated £431.48 in client charges. Each charge incurred by Wilde Sapte was necessary and was incurred as a direct result of Wilde Sapte's representation of the Committee. A summary of Wilde Sapte's client charges is set forth in Exhibit "C" annexed hereto.

38. It is Wilde Sapte's practice to make an equitable allocation of the cost of support services it provides by charging duplicating fees, computer and automated legal research time, and the like separately, rather than including such costs as an overhead component in the hourly rates of Wilde Sapte's professionals. This billing practice more closely reflects the expenditure of resources in the provision of services to particular clients. Support services and expenses incurred are itemised and explained in greater detail in Exhibit C.

39. All duplicating costs relating to this matter have been charged at £0.1125 per page. Disbursements for search fees, local travel and courier charges have been charged at the actual cost to Wilde Sapte. Outgoing facsimile transmissions are billed at between £0.10 and £1.50 per page, depending upon the destination of the facsimile, plus the cost of long distance telephone calls. Wilde Sapte does not charge for incoming facsimile transmissions.

### **CONCLUSION**

WHEREFORE, WILDE SAPTE requests that this Court enter an

appropriate order (i) granting this First Application for interim compensation and reimbursement of expenses, (ii) allowing and awarding Wilde Sapte £22,316.66 as compensation for professional services rendered as Special United Kingdom Counsel for the Committee for the Application Period, plus £431.48 as reimbursement for client charges accumulated by Wilde Sapte in connection with those services, (iii) authorising the Debtors to pay Wilde Sapte £22,316.66 as interim compensation for professional services rendered and £431.48 reimbursement for client charges accumulated, subject to any holdbacks that this Court may determine to be appropriate under the circumstances without prejudice to the

allowance and payment of additional compensation upon consideration of subsequent fee applications, and (iv) granting Wilde Sapte any such other relief as is just and proper.

Dated February 27th, 1998

Respectfully submitted

WILDE SAPTE

London, England

By: /s/ Mark B Andrews

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