

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	:	CHAPTER 11
ENCOMPASS SERVICES CORPORATION,	:	Case No. 02-43582-H4-11
<u>et al.</u>	:	
Reorganized Debtors.	:	JOINTLY ADMINISTERED

**COVER SHEET FOR FINAL APPLICATION OF HERMAN MOUSEL SEXTON, P.C.
AS INCOME TAX COMPLIANCE AND TAX RETURN PREPARATION
PROFESSIONALS FOR DEBTORS FOR ALLOWANCE OF COMPENSATION FOR
PROFESSIONAL SERVICES RENDERED
FROM FEBRUARY 19, 2003 THROUGH JUNE 9, 2003**

Name of Applicant: Herman Mousel Sexton, P.C.

Authorized to Provide
Professional Services to: Encompass Services Corporation, et al.

Date of Retention: February 19, 2003

Compensation Period:

Period for which compensation
and reimbursement are sought: February 19, 2003 through June 9, 2003

Amount of compensation sought
as actual, reasonable, and necessary: \$231,000

Amount of expense reimbursement
sought as actual, reasonable, and necessary: \$0

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	:	CHAPTER 11
	:	
ENCOMPASS SERVICES CORPORATION,	:	Case No. 02-43582-H4-11
<u>et al.</u>	:	
	:	
Reorganized Debtors.	:	JOINTLY ADMINISTERED
	:	

**FINAL APPLICATION OF HERMAN MOUSEL SEXTON, P.C. AS
INCOME TAX COMPLIANCE AND TAX RETURN PREPARATION
PROFESSIONALS FOR DEBTORS FOR ALLOWANCE OF COMPENSATION FOR
PROFESSIONAL SERVICES RENDERED
FROM FEBRUARY 19, 2003 THROUGH JUNE 9, 2003**

A HEARING WILL BE CONDUCTED ON THIS MATTER ON SEPTEMBER 10, 2003 AT 11:00 A. M. IN COURTROOM 403, 515 RUSK AVENUE, HOUSTON, TEXAS. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING, SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING UNLESS YOU DID NOT RECEIVE THIS NOTICE IN TIME TO DO SO. IN THAT SITUATION, FILE YOUR RESPONSE AS SOON AS POSSIBLE. IN ADDITION TO FILING YOUR RESPONSE WITH THE CLERK, YOU MUST GIVE A COPY OF YOUR RESPONSE TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

TO THE HONORABLE WILLIAM R. GREENDYKE,
UNITED STATES BANKRUPTCY JUDGE:

Herman Mousel Sexton, P.C. ("HMS") hereby files its first and final application (the "Application") for allowance of compensation for professional services rendered by HMS during the period from February 19, 2003 through June 9, 2003 (the "Compensation Period") pursuant to section 330 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 2016

of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2016 of the Local Rules of the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Local Rules”) and respectfully represents as follows:

Jurisdiction and Venue

1. The Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of this Application is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. On November 19, 2002 (the “Commencement Date”), Encompass Services Corporation (“Encompass”) and its direct and indirect subsidiaries filed voluntary petitions for relief under the Bankruptcy Code.

3. On May 28, 2003, after notice and a hearing held on May 21, 2003, this Court entered an order approving and confirming the Second Amended Joint Plan of Reorganization of Encompass Services Corporation and its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code, dated April 11, 2003, as modified by the Immaterially Modified Second Amended Joint Plan of Reorganization of Encompass Services Corporation and its Affiliated Debtors Under Chapter 11 of the Bankruptcy Code dated May 21, 2003, and as supplemented by the Debtors’ Plan Supplement dated May 8, 2003, the Debtors’ First Amended Plan Supplement dated May 14, 2003, and the Debtors’ Second Amended Plan Supplement dated May 19, 2003 (all of the foregoing collectively, the “Plan”).

4. On June 9, 2003, the Plan became effective, and Encompass and Encompass Services Holding Corp., as reorganized debtors (collectively, the “Debtors”), emerged from chapter 11 of the Bankruptcy Code.

5. Initially HMS was retained as an ordinary course professional pursuant to the procedures outlined in the Court’s Order Pursuant to Sections 105 and 327 of the Bankruptcy Code Authorizing the Retention of Professionals Utilized in the Ordinary Course of Business, entered on December 19, 2003. Subsequently, HMS was retained as income tax compliance and tax return preparation professionals pursuant to an employment agreement between HMS and the Encompass. The retention of HMS as income tax compliance and tax return preparation professionals was approved on February 19, 2003, by the Court’s Order Approving Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code Authorizing the Debtors’ Employment and Retention of Herman Mousel Sexton, P.C. as Income Tax Compliance and Tax Return Preparation Professionals (Docket #1356, the “Retention Order”), a copy of which is attached hereto as Exhibit A. The employment agreement provided for a fixed fee arrangement whereby HMS was to be compensated \$693,000 for providing, among other services, income tax compliance and tax return preparation services to Encompass. The fixed fee was to be paid in nine monthly installments of \$77,000, commencing January 2003, and ending in September 2003. Attached hereto as Exhibit B is the Declaration of Donald J. Herman in Support of the Debtors’ Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code Authorizing the Employment and Retention of Herman Mousel Sexton, P.C. as Income Tax Compliance and Tax Return Preparation Professionals. Attached hereto as Exhibit C is a

copy of the letter setting forth the terms of the engagement between Encompass and HMS (the “Employee Agreement”) dated December 26, 2002.

Compensation Requested

6. This is HMS’s first and final application for compensation in this case. Section 330 of the Bankruptcy Code allows a court to award a professional (a) “reasonable compensation for actual, necessary services” rendered by a professional, 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 (b) “reimbursement for actual, necessary expenses.” 11 U.S.C. § 330.

7. By this Application and in accordance with section 330 of the Bankruptcy Code, HMS requests final allowance of \$231,000 for the Compensation Period, representing compensation for professional services rendered from March 2003 through May 2003. The Employment Agreement does not allow for reimbursement of expenses.

8. Since March 2003, HMS has submitted monthly statements to Encompass requesting 80% of its monthly fixed fee. As of the date hereof, HMS has received payment of \$184,800 for fees incurred from March 2003 through May 2003. Other than these payments, during the Compensation Period HMS 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 Application.

9. There is no agreement or understanding between HMS and any person for the sharing of compensation to be received for services rendered in this case.

10. HMS's charges for professional services rendered in this case are billed in accordance with HMS's existing billing procedures and the Employment Agreement, which provides for a fixed fee arrangement.

11. HMS submits that this Application complies with section 330 of the Bankruptcy Code, the Bankruptcy Rules, the Bankruptcy Local Rules, and the guidelines adopted by the Executive Office for the United States Trustee.

Time Records

12. Time records are not required by the Employment Agreement between Encompass and HMS, as approved in the Retention Order.

Summary of Services

13. Pursuant to Rule 2016(d)(3) of the Bankruptcy Local Rules, fee applications must include a detailed description of each major task performed by the applicant. Accordingly, the following is a summary of certain of the significant professional services rendered by HMS during the Compensation Period.

14. As set forth in the Employment Agreement, HMS was engaged to provide income tax compliance and tax return preparation services to Encompass. As more fully explained below, this engagement principally included preparing the 2002 consolidated United States federal corporate income tax return, determining the availability of carrying the 2002 consolidated federal net operating loss back to prior years to generate refunds of previously paid federal taxes, preparing the forms to carryback the 2002 consolidated federal net operating loss, preparing approximately 550 extensions of time to file, and preparing 550 state income/franchise

tax returns for Encompass. The work to be performed pursuant to the Employment Agreement commenced in January 2003 and is anticipated to be completed by October 31, 2003.

15. The 2002 consolidated United States federal corporate income tax return (“Form 1120”) was prepared and filed on a timely basis without extension of the original March 17, 2003 due date. Form 1120 was a consolidated federal income tax return that included the 127 direct and indirect subsidiaries of Encompass.

16. Concurrently with preparing Form 1120, five-year carryback histories were determined in order to comply with the Internal Revenue Code carryback rules. Concurrent with the completion of Form 1120, eight Forms 1139, which address corporate refunds, were prepared and filed by March 17, 2003. The filing of the Forms 1139 resulted in refunds of previously paid federal income taxes of approximately \$119,809,000. The expeditious preparation of both Form 1120 and the eight Forms 1139 resulted in Encompass receiving a refund on or about April 1, 2003.

First Colonial Factors

17. Pursuant to Bankruptcy Local Rule 2016(a), fee applications must include a discussion of the factors considered in *American Benefit Life Ins. Co. v. Baddock (In re First Colonial Corp. of America)*, 544 F.2d 1291, 1298-99 (5th Cir.), *cert. denied*, 431 U.S. 904 (1977). Consideration of the factors listed in *First Colonial Corp.* indicates that the compensation requested by HMS for the services rendered during the final Compensation Period is reasonable:

(a) **Time and Labor Required:** The Employment Agreement provided that services to be performed by HMS were on a fixed-fee basis. As a result, records indicating

personnel and time spent on projects have not been maintained. However, HMS submits that since its relationship with Encompass for these particular professional services has occurred over a six-year tax reporting period (from February 28, 1998 to December 31, 2002), and each period was subject to a fixed-fee arrangement as agreed to between Encompass and HMS, that the fixed-fee for the December 31, 2002 tax return preparation is reasonable. HMS's familiarity with Encompass, and HMS's experience with providing these particular services enabled Encompass to obtain a refund from their previously paid federal income taxes in an unprecedented time period. This was accomplished despite the complexities and issues involved in preparing a 128-member consolidated federal income tax return, analyzing 128 five-year carryback histories, and preparing all of the supporting documents to ensure a timely refund of \$119,809,000 of federal tax.

(b) Novelty and Difficulty of the Task: Although the majority of the issues and tasks in this case were not novel, the preparation of taxation-related documents was difficult because the short time frame involved in the bankruptcies of Encompass and its direct and indirect subsidiaries.

(c) Skill Requisite to Perform the Service Properly: Income tax compliance and return preparation is a specialized area of accounting. In order to address the range of issues and challenges presented, HMS was required to draw upon its skill and experience in tax law.

(d) Preclusion of Other Employment Due to the Acceptance of the Case: Although HMS's representation of Encompass consumed a significant portion of the time

of several of the professionals, HMS was not precluded from taking other employment as a result of these cases.

(e) Customary Fee: HMS represents that the fixed fee is reasonable, fair, and customary for the degree of skill and expertise required in this case.

(f) Whether the Fee is Fixed or Contingent: HMS's fee is a fixed fee as agreed to by Encompass and approved by the Court. The fixed fee arrangement is similar to the arrangement that HMS and Encompass have had for Encompass's past five tax reporting periods.

(g) Time Limitations: The 2002 Form 1120 (for a 128-member consolidated group) and the eight Forms 1139's were prepared and filed on a timely basis, as they were filed by the original March 17, 2003 due date for the 2002 federal income tax return.

(h) Amount Involved and Results Obtained: HMS's activities resulted in the receipt of a \$119,809,000 refund on or about April 1, 2003 by Encompass.

(i) Experience, Reputation and Ability of Professionals: Encompass selected HMS as their income tax compliance and tax return preparation professionals for the services described in the Employment Agreement because of HMS's experience in these matters and Encompass's satisfaction with the past professional services provided to Encompass regarding these same matters.

(j) Undesirability of the Case: Whenever a professional agrees to represent a debtor, there is an inherent risk that the firm's professionals' fees will not get paid. Due to this uncertainty, professionals frequently choose not to represent debtors.

(k) Nature and Length of the Professional Relationship with the

Client: HMS has provided services to Encompass since February 28, 1998.

(l) Awards in Similar Cases: HMS's requested fees are similar to fees

paid in other chapter 11 bankruptcy cases of this nature, length of time, and complexity.

18. The Application does not include fees or expenses for the preparation of this Application.

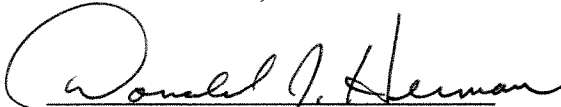
Conclusion

WHEREFORE HMS respectfully requests (a) final allowance of \$231,000 for the Compensation Period, representing the compensation for professional services rendered during the Compensation Period; (b) authorization for the Debtors to pay HMS such sum to the extent that such sum has not previously been paid; and (c) for such other and further relief as is just.

Dated: JULY 28, 2003
Houston, Texas

Respectfully submitted,

Herman Mousel Sexton, P.C.

By: 

507 North Sam Houston Parkway, East
Houston, Texas 77060
Phone: 281-445-1120
Fax: 281-445-4414

**PROFESSIONALS FOR THE DEBTORS AND
THE DEBTORS IN POSSESSION**

EXHIBIT A

Exhibit A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	:	CHAPTER 11
ENCOMPASS SERVICES CORPORATION,	:	Case No. 02-43582-H4-11
<u>et al.</u>	:	
	:	
Debtors.	:	JOINTLY ADMINISTERED

**ORDER APPROVING APPLICATION PURSUANT TO SECTIONS 327(a) AND 328(a)
OF THE BANKRUPTCY CODE AUTHORIZING THE DEBTORS' EMPLOYMENT
AND RETENTION OF HERMAN MOUSEL SEXTON, P.C. AS INCOME TAX
COMPLIANCE AND TAX RETURN PREPARATION PROFESSIONALS**

[This instrument pertains to Docket # 935]

Upon consideration of the application (the "Application") of Encompass Services Corporation and its direct and indirect subsidiaries (collectively, the "Debtors") for an order pursuant to sections 327(a) and 328(a) chapter 11 of title 11 of the United States Code for authorization to retain and employ Herman Mousel Sexton, P.C. ("HMS") as income tax compliance and tax return preparation professionals and for the approval of the proposed terms of such employment set forth in the letter agreement dated as of December 26, 2002, attached as Exhibit B to the Application (the "Agreement"); and upon the Declaration of Donald J. Herman (the "Herman Declaration") in support of the Application attached as Exhibit A to the Application; and the Court being satisfied, based on the representations made in the Application and the Herman Declaration, that HMS represents or holds no interest adverse to the Debtors or to their estates as to the matters upon which it is to be engaged and is disinterested under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code; and the Court being satisfied that the relief requested in the Application is in the best interests of the

Debtors and their estates; and it appearing that due notice of this Application has been given and that no other or further notice need be given and sufficient cause appearing therefor, it is


ORDERED that the Application is granted; and it is further

ORDERED that, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure, the Debtors are authorized to retain and employ HMS as their income tax compliance and tax return preparation professionals for the purpose of preparing the 2002 federal and state income and franchise tax returns as well ensuring compliance with all tax reporting laws related to such returns in connection with the Debtors' chapter 11 cases in accordance with the terms of, and as detailed in, the Agreement, effective as of January 1, 2003; and it is further

ORDERED that the fees to be paid to HMS pursuant to the terms of the Agreement, are approved, provided that subject to the foregoing and the standards imposed by section 328(a) of the Bankruptcy Code, awards of compensation and expenses will be sought by HMS pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of this Court and any applicable orders of this Court, including but not limited to, the Administrative Order Pursuant to Sections 105(a) and 331 of the Bankruptcy Code Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, entered on December 19, 2002; provided however, that HMS shall not be required to maintain and submit detailed time records in support of interim or final fee applications to be filed with the Court, instead HMS shall describe the services provided on behalf of the Debtors during the applicable period and those professionals who provided such services; and it is further

ORDERED that this Court will retain exclusive jurisdiction to construe and enforce the terms of the Application, the Agreement, and this Order.

Dated: 2/19, 2003
Houston, Texas



THE HONORABLE WILLIAM R. GREENDYKE,
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	:	CHAPTER 11
	:	
ENCOMPASS SERVICES CORPORATION, <u>et al.</u>	:	Case No. 02-43582-H4-11
	:	
Debtors.	:	JOINTLY ADMINISTERED

**DECLARATION OF DONALD J. HERMAN
IN SUPPORT OF THE DEBTORS' APPLICATION PURSUANT TO SECTIONS 327(a)
AND 328(a) OF THE BANKRUPTCY CODE AUTHORIZING THE EMPLOYMENT
AND RETENTION OF HERMAN MOUSEL SEXTON, P.C. AS INCOME TAX
COMPLIANCE AND TAX RETURN PREPARATION PROFESSIONALS**

DONALD J. HERMAN, a shareholder of Herman Mousel Sexton, P.C. hereby declares pursuant to section 1746 of title 28 of the United States Code:

1. I am a shareholder of Herman Mousel Sexton, P.C. ("HMS"), Certified Public Accountants, which firm maintains an office located at 507 North Sam Houston Parkway East, Suite 230, Houston, Texas 77060. I make this declaration (the "Declaration") on behalf of HMS in support of the Application Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code Authorizing the Employment and Retention of Herman Mousel Sexton, P.C. as Income Tax Compliance and Tax Return Preparation Professionals for Encompass Services Corporation, et al. (the "Debtors") in these chapter 11 cases, pursuant to the terms and conditions set forth in the agreement dated December 26, 2002 (the "Agreement"), a copy of which is attached to the Application as Exhibit B. Except as otherwise noted, I have personal knowledge of the matters set forth herein.

2. HMS is a certified public accounting firm with one office located in Houston Texas. The firm provides income tax compliance and tax return preparation services to

clients in connection with both federal and state income and franchise tax requirements. The firm has substantial experience in the income tax compliance and tax return preparation services industry.

3. HMS has agreed to provide the necessary professional services as income tax compliance and tax return preparation professionals to the Debtors in the above-captioned chapter 11 cases before this Court, pursuant to the terms and conditions of the Agreement. No agreement exists to share any compensation received by HMS for its services with any person or firm.

4. The terms and conditions of the Agreement were negotiated between the Debtors and HMS and reflect the parties' mutual agreement as to the substantial efforts to be performed by HMS prior to September 30, 2003. As is customary in similar HMS engagements, the Agreement provides for HMS to receive monthly payments totaling a pre-agreed upon fixed fee for the income tax compliance and tax return preparation services to be performed. Taking into account the complex nature of this engagement and the time constraints being imposed, the terms contained in the Agreement are similar to the terms agreed to by HMS in similar engagements.

5. HMS is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code in that HMS:

- (a) is not a creditor, equity security holder or insider of the Debtors;
- (b) is not and was not an investment banker for any outstanding security of the Debtors;
- (c) has not been, within three (3) years before the date of the filing of the Debtors' chapter 11 petition, (i) an investment banker for a security of the Debtors, or (ii) an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the Debtors; and

- (d) is not and, was not, within two (2) years before the date of the filing of the Debtors' chapter 11 petition, a director, officer, or employee of the Debtors or of any investment banker as specified in subparagraph (b) or (c) of this paragraph.

6. Moreover, to the best of my knowledge, information and belief formed after reasonable inquiry, HMS and its affiliate, professionals and employees have no materially adverse interest to the Debtors' estates or the creditors in these cases.

7. To the best of my knowledge, information and belief formed after reasonable inquiry, neither I, HMS and its affiliate, nor any of our professionals or employees, have any connection with the Debtors, their creditors, any other party with an actual or potential interest in these chapter 11 cases, the Debtors' respective attorneys, accountants and other professionals, the United States Trustee, or the United States Bankruptcy Court except as set forth below:

- (a) HMS has represented and advised the Debtors, including certain affiliates and their predecessors, with respect to federal and state income and franchise tax compliance and tax return preparation services since February 1998;
- (b) HMS has prepared the personal income tax returns for certain of the Debtors' current and former senior officers and directors, in the ordinary course of business and unrelated to these chapter 11 cases;
- (c) HMS currently utilizes the services of Wells Fargo Bank, N.A. for its general banking services. Wells Fargo Bank, N.A. may be a related affiliate or subsidiary of Wells Fargo Capital Markets Inc., identified by the Debtors as one of the Debtors' banks.

8. To determine its relationship with parties-in-interest in these cases, HMS researched its client databases for the prior two years to identify any relationships with the following entities (collectively, the "Interested Parties") that were identified to HMS by the Debtors:

- (a) The Debtors and their affiliates as identified to HMS by the Debtors;
- (b) The Debtors' directors and senior officers and certain of their major business affiliations, as identified by the Debtors;
- (c) The Debtors' key creditors, including participants in the Debtors' term loans and holders of bonds issued by the Debtors, as identified to HMS by the Debtors;
- (d) The Debtors' fifty largest unsecured creditors, as identified to HMS by the Debtors; and
- (e) The attorneys and other professionals that the Debtors have employed in these chapter 11 cases through applications filed with the Court; and
- (f) The members of the statutory Committee of Unsecured Creditors and its professionals, as identified to HMS by the Debtors.

This disclosure will be supplemented from time to time, as appropriate, in the event additional entities are added to the Interested Party list by the Debtors and/or further investigation of the Interested Parties yields additional information material to this engagement.

9. As described in the Application, prior to the filing of these cases, the Debtors paid HMS forty-seven thousand dollars (\$47,000) in fees per month on a twelve (12) month billing basis relating to the 2001 tax reporting year pursuant to prior arrangements between the Debtors and HMS. HMS does not hold a prepetition unsecured claim against the Debtors' estates.

10. HMS will apply to the Court for payment of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of this Court, the Agreement, and pursuant to any additional procedures that may be established by the Court in these cases, including but not limited to, the Administrative Order Pursuant to Sections 105(a) and 331 of the Bankruptcy Code Establishing Procedures for Interim Compensation and Reimbursement of Expenses of

Professionals, entered on December 19, 2002. Because HMS will be compensated through a flat monthly fee, which has been the practice with the Debtors since 1998, and because HMS does not have the requisite systems in place to record its time in detailed entries, HMS should not be required to maintain or provide detailed time records in connection with any of its fee applications. In support of such applications, HMS will describe those services provided on behalf of the Debtors during the applicable period, and those professionals (and their qualifications) who provided such services.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

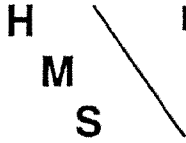
Executed on January 27, 2003

/s/ Donald J. Herman

Donald J. Herman

EXHIBIT C

Exhibit C



Herman Mousel Sexton, P.C.

Certified Public Accountants

507 North Sam Houston Parkway East, Suite 230
Houston, Texas 77060
(281) 445-1120 • Fax (281) 445-4414

Donald J. Herman, CPA
William G. Mousel, CPA
Richard E. Sexton, CPA

December 26, 2002

Mr. Layne J. Albert
Director of Taxes
Encompass Services Corporation
3 Greenway Plaza, Suite 2000
Houston, TX 77046

Dear Mr. Albert:

The purpose of this letter is to set forth the terms of the engagement that Encompass Services Corporation (ESR) and Herman Mousel Sexton, P.C. (HMS) have agreed to with respect to HMS providing to ESR federal and state income/franchise tax compliance services and assistance in accounting for federal and state income taxes.

Specifically, HMS will prepare:

The 2002 consolidated federal income tax return (Form 1120), including any amended return(s), if necessary,

Corporation Application(s) for Tentative Refund (Form(s) 1139), including any amendments, if necessary,

All appropriate state extensions of time to file returns,

All required separate state income/franchise tax returns (approximately 620 separate state returns were prepared for 2001),

All required consolidated or combined state income/franchise tax returns (16 returns were prepared for 2001),

Quarterly federal and state estimated tax payments as required,

Prepare monthly reports of federal and state income tax payments and refunds, including assistance in determining the monthly federal and state provision (benefit) for income taxes,

Provide detail analysis of temporary differences by legal entity for purposes of accounting for deferred taxes.

Additionally, HMS will assist in determining the appropriate tax reporting of gains/losses on the dispositions of assets of entities, lines of businesses, discontinued operations, etc.


Mr. Layne J. Albert
Director of Taxes
Page 2 of 2
December 26, 2002

Based on our previous experience in providing these services to ESR, our fee for performing the above listed services is \$693,000, including expenses. We proposed that this amount would be billed in nine (9) equal installments of \$77,000 commencing January 2003.

If you are in agreement with the terms of this engagement, please sign and date in the space provided and return a copy to HMS. The duplicate copy is for your records.

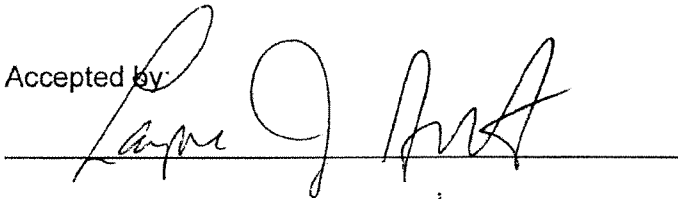
We appreciate this opportunity to provide continuing services to ESR.

Yours very truly,



Herman Mousel Sexton, P.C.

Accepted by



Date:

1/8/03

Certificate of Service

This is to certify that a true and correct copy of the foregoing Application was served upon the parties listed below by e-mail or by United States mail, first class, postage prepaid on this the 1st day of August, 2003.

Encompass Services Corporation
3 Greenway Plaza, Suite 2000
Houston, TX 77046
Attn: John Hale

Weil, Gotshal & Manges LLP
700 Louisiana, Suite 1600
Houston, Texas 77002
Attn: Alfredo Perez
Lydia Protopapas

Office of the United States Trustee
515 Rusk Street, 3rd Floor
Houston, TX 77002
Attn: Hector Duran, Jr.

Counsel for the Debtors' Prepetition
Lenders and Counsel for the Debtors'
Postpetition Lenders:
Winstead Sechrest & Minick P.C.
5400 Renaissance Tower
1201 Elm Street
Dallas, TX 75270-2199
Attn: R. Michael Farquhar

Chairperson of and Counsel to the
Committee:

Philip Falcone - Co-chair
Harbert Management Corporation
555 Madison Avenue, 28th Floor
New York, NY 10022
Facsimile: 212-521-6972

John Pare - Chair
Hughes Supply, Inc.
20 North Orange Ave., Suite 200
Orlando, FL 32801
Facsimile: 407-649-3018

Andrews & Kurth L.L.P.
600 Travis Street, Suite 4200
Houston, TX 77002
Attn: Hugh M. Ray
Jim Donnell

/s/ Rene Olvera
Rene Olvera

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

ENCOMPASS SERVICES CORPORATION,
et al.

Reorganized Debtors.

:
: CHAPTER 11
:

: Case No. 02-43582-H4-11
:

: JOINTLY ADMINISTERED
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**ORDER APPROVING FINAL APPLICATION OF HERMAN MOUSEL SEXTON, P.C.
AS INCOME TAX COMPLIANCE AND TAX RETURN PREPARATION
PROFESSIONALS FOR DEBTORS FOR ALLOWANCE OF COMPENSATION FOR
PROFESSIONAL SERVICES RENDERED
FROM FEBRUARY 19, 2003 THROUGH JUNE 9, 2003**

[This instrument pertains to Docket No. _____]

Upon consideration of the application (the "Application") of Herman Mousel Sexton, P.C. ("HMS") for an order approving final application of HMS as income tax compliance and tax return preparation professionals for Encompass Services Corporation for allowance of compensation for professional services rendered from February 19, 2003 through June 9, 2003; and the Court being satisfied that the relief requested in the Application is in the best interests of Encompass Services Corporation and Encompass Services Holding Corp. (collectively, the "Debtors") and their estates; and it appearing that due notice of this Application has been given and that no other or further notice be given and sufficient cause appearing therefor, it is

ORDERED that the Application is granted; and it is further

ORDERED that HMS is entitled to a final allowance of \$231,000 for the period from February 19, 2003 through June 9, 2003 (the "Compensation Period"), representing

\$231,000 as compensation for professional services rendered during the Compensation Period and \$0 as reimbursement for actual and necessary expenses incurred during the Compensation Period; and it is further

ORDERED that the Debtors are authorized to pay HMS such sums, to the extent that such amounts have not previously been paid.

DATED: _____, 2003
Houston, Texas

HONORABLE WILLIAM R. GREENDYKE,
UNITED STATES BANKRUPTCY JUDGE