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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
In re	:	Chapter 11
	:	
ENRON CORP., et al.,	:	Case No. 01-16034 (AJG)
	:	
Debtors.	:	Jointly Administered
	x	

**FIRST AND FINAL APPLICATION FOR ALLOWANCE OF COMPENSATION OF
McCLAIN & SIEGEL, P.C., FOR THE PERIOD APRIL 2, 2002 THROUGH JUNE 2,
2002**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Comes now McClain & Siegel, P.C. (“Applicant” or “McClain”),¹ co-counsel for the Official Employment-Related Issues Committee of Enron Corp., *et al.* (collectively, the “Debtors”), in these chapter 11 cases and for its above styled Application would represent as follows:

I. Jurisdiction

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334 (b). This Application presents a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The Court has authority to grant the relief requested in this Application pursuant to 11 U.S.C. § 328(a), 330 and 331.

¹ Effective July 1, 2002, the name of the firm was changed to McClain & Leppert, P.C.

II. Factual and Procedural Background

2. Applicant, a professional corporation, is a law firm composed of attorneys duly licensed to practice law before various courts in the state of Texas and the United States Bankruptcy Court for various federal judicial districts. Applicant's office is located in Houston, Texas.

3. On December 2, 2001, (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), 11 U.S.C. § 101 *et seq.* The Debtors continue to operate their businesses as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. On December 12, 2001, the United States Trustee ("UST") appointed the Official Committee of Unsecured Creditors (the "Creditors' Committee"). On March 27, 2002, the UST appointed the Official Employment-Related Issues Committee (the "Employee Committee"). The Employee Committee was reconstituted on March 29, 2002.

5. At the Employee Committee organizational meeting on April 2, 2002, the Employee Committee selected McClain & Siegel, P.C. ("McClain") and Kronish Lieb Weiner & Hellman, LLP ("Kronish") as co-counsel to represent the Employee Committee.

6. On April 25, 2002, the Employee Committee filed applications to retain Applicant and Kronish as co-counsel to the Employee Committee. At the hearing on May 31, 2002, to retain Applicant and Kronish, the Court determined that the Employee Committee could not retain co-counsel and directed the Employee Committee to select one firm to serve as counsel on or before June 14, 2002.

7. On June 2, 2002, the Employee Committee met to determine which firm to retain as its counsel in these cases. The Employee Committee chose the Kronish firm. An order was entered by this Court on June 10, 2002, authorizing the Employee Committee to retain Kronish for the

duration of these cases and to retain McClain for the limited time period of April 2, 2002 through June 2, 2002. Attached hereto as **Exhibit “A”** is the Order Authorizing and Approving Retention and Employment of Kronish Lieb Weiner & Hellman, LLP, *nun pro tunc* as of April 2, 2002, as counsel to Official Employment-Related Issues Committee of Enron Corp.

8. The Applicant served as co-counsel to the Employee Committee from April 2, 2002 through June 2, 2002, and in that time period rendered services for the benefit of the estates in all matters relating to the Employee Committee in the Debtors’ chapter 11 bankruptcy cases. No payments of fees or expenses of the Applicant have been made or promised as to these legal services, except as authorized by the Court, and all such fees and expenses are anticipated to be paid from property of the Debtors’ estates. There is no agreement as to the sharing of the compensation sought herein except as may exist among the attorneys of the Applicant.

9. On May 17, 2002, Applicant filed its Statement of Fees and Expenses for Services Rendered and Disbursements Incurred by McClain & Siegel, P.C. as Proposed Bankruptcy Co-Counsel to the Official Employment-Related Issues Committee, for the Period April 2, 2002 through April 30, 2002 (the “April Statement”) for fees in the amount of \$200,469.50 and expenses in the amount of \$7,781.07.

10. On June 21, 2002, Applicant filed its Statement of Fees and Expenses for Services Rendered and Disbursements Incurred by McClain & Siegel, P.C. as Bankruptcy Co-Counsel to the Official Employment-Related Issues Committee, for the Period May 1, 2002 through June 2, 2002 (the “May Statement”) for fees in the amount of \$158,631.00 and expenses in the amount of \$11,558.67.

11. Both the April Statement and the May Statement were submitted in accordance with the United States Trustee Guidelines and the Order dated January 17, 2002, establishing fee

procedures for these chapter 11 cases (the "Procedures Order"). As of the filing of this Application, Applicant has not received payment for either the April Statement or May Statement pursuant to the Procedures Order. 12. After the submission of the April Statement and the May Statement, Applicant received invoices from third party vendors for additional expenses incurred on behalf of the Employee Committee in the amount of \$1,225.00. Applicant also seeks reimbursement of these expenses, a copy of the invoice for these expenses is attached hereto as **Exhibit "D-2."**

13. No prior applications have been filed by the Applicant in these cases.

III. Summary of Application

14. In this Application, the Applicant requests final approval of fees in the amount of \$359,100.50, expenses in the amount of \$19,339.74 previously included in the April and May Statements, and expenses in the amount of \$1,225.00, incurred but not previously invoiced, for the period April 2, 2002, through June 2, 2002 (the "Application Period").

15. The total amount of fees for which approval is sought is based on the legal services performed by the Applicant. A summary reflecting total fees based on legal services performed by the Applicant and each attorney's applicable hourly rate is set forth in **Exhibit "B."** In addition, a detailed breakdown by category of legal services performed is attached hereto as **Exhibit "C."**

16. During the Application Period, as itemized and summarized in **Exhibit "D-1,"** Applicant incurred expenses in connection with its representation of the Employee Committee totaling \$20,564.74. Each expenditure was a necessary and reasonable cost incident to the performance of Applicant's duties as counsel to the Employee Committee.

17. Applicant assigned relatively routine duties in support of its attorneys' efforts to legal assistants employed by Applicant. These services are compensable in chapter 11 cases. *In re Wolverine Knitting Mills, Inc.*, 107 B.R. 546 (E.D. Mich 1989); *In re Busy Beaver Bldg. Ctrs., Inc.*,

19 F.3d 833 (3rd Cir. 1994). The hourly rates of the legal assistants providing services during the Application Period, compilation of hours spent and fees generated by these professionals are also set forth in **Exhibits “B” and “C.”**

18. In rendering services to the Debtor, Applicant's attorneys have made deliberate efforts to avoid duplication of work. Moreover, Applicant utilized the expertise of its legal assistants whenever possible for tasks that did not involve the rendering of legal advice, but rather required routine drafting or judgment in sorting and allocating information, in order to reduce the overall fees in these cases without sacrificing the quality of the services being rendered. Applicant submits that its use of its legal assistants have resulted in the smooth and efficient administration of its representation of the Employee Committee in these cases and a correspondingly efficient utilization of Applicant's attorneys.

19. These highly complex chapter 11 cases have required the expenditure of time and effort on the part of shareholders, associates and other professionals of Applicant. Applicant's time expended in these cases is commensurate with the size and complexity of these cases and the numerous significant legal issues with which Applicant has been involved.

III. Application Standards

A. Compensation Requested – There are numerous factors to be considered by the Court in determining allowances of compensation. *See, e.g., In re First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir.), *cert. denied*, 431 U.S. 904 (1977); *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974); *In re Drexel Burnham Lambert Group Inc.*, 133 B.R. 13

(Bankr. S.D.N.Y. 1991). *See also, In re Nine Associates, Inc.*, 76 B.R. 943 (S.D.N.Y. 1987); *In re Cuisine Magazine, Inc.*, 61 B.R. 210 (Bankr. S.D.N.Y. 1986).

20. In awarding compensation pursuant to sections 330 and 331 of the Bankruptcy Code to professional persons employed under section 328 of the Bankruptcy Code, the Court must take into account, among other factors, the cost of comparable non-bankruptcy services. Section 330 of the Bankruptcy Code provides, in pertinent part, for payment of:

- a. reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by such person; and
- b. reimbursement for actual, necessary expenses.

11 U.S. C. § 330(a)(1).

21. As the court in *In re Drexel Burnham Lambert Group, Inc.*, 133 B.R. 13 (Bankr. S.D.N.Y. 1991), stated:

With due recognition of the historical position of Bankruptcy Courts in compensation matters, we recognize that creditors have agreed to pay rates for retained counsel of their choice because of the needs of the particular case. One could posit other situations or cases where a presumption of prior informed judgment might not be as strong. Here, however, we have a multi-debtor, multi-committee case involving sophisticated creditors who have determined that the rates charged and tasks undertaken by attorneys are appropriate. We should not, and will not, second guess the determination of those parties, who are directed by Congress, under the Bankruptcy Code, to shape and resolve the case, and who are in fact bearing the cost. To do so, of course, would be to continue what Congress specifically intended to stop in 1978: Courts, instead of markets, setting rates, with the inevitable consequence that all the legal specialists required by the

debtor or official committees would demur to participate.

Drexel, 133 B.R. at 20-21.

22. Time and labor is only one of the many factors to be considered in awarding attorney compensation. The number of hours expended must be considered in light of (i) the amount involved and the results achieved to date; (ii) the novelty and difficulty of the questions presented; (iii) the skill requisite to perform properly the legal services; (iv) the preclusion of other employment on behalf of other clients; (v) the customary fee charged to a client for the services rendered; (vi) awards in similar cases; (vii) time constraints required by the exigencies of the case, including the frequency and amount of time required to be devoted other than during regular business hours; (viii) the experience, reputation and ability of the attorneys rendering services; and (ix) the nature and length of the professional relationship with the client (the “Johnson Factors”). See *Johnson v. Georgia Highway Express*, 488 F.2d at 717-19 (enumerating factors to be considered in awarding attorneys’ fees in equal employment opportunities cases under Title VII); *In re First Colonial Corp. of America*, 544 F.2d at 1294 (applying the Johnson Factors in bankruptcy cases).

23. The majority of the Johnson Factors are codified in section 330(a) of the Bankruptcy Code, and have been applied by various courts in making determinations that requested attorneys’ fees constitute reasonable compensation. It is well settled that the “lodestar method,”² as opposed to an application solely of the Johnson Factors, is the best means of determining attorney fees in bankruptcy

² Application of the “lodestar method” involves multiplying the number of hours reasonably expended on the case by the reasonable hourly rate of compensation of each attorney. *Shaw v. Travelers Indemnity Co. (In re Gant Assocs)*, 154 B.R. 836, 843 (S.D.N.Y. 1993). This method of calculating attorney fees is appropriate in light of section 330(a) of the Bankruptcy Code, which serves as a starting point, permitting bankruptcy courts, in their own discretion, to consider other factors, such as the novelty and difficulty of the issues, the special skills of counsel, and their results obtained. *In re Copeland*, 154 B.R. 693, 698 (Bankr. W.D. Mich. 1993).

cases.³ The Supreme Court, however, has clearly articulated that the “lodestar method” is presumed to subsume the Johnson Factors, as does section 330(a) of the Bankruptcy Code. *Delaware Valley I*, 478 U.S. at 563; *Cena’s Fine Furniture*, 109 B.R. at 581.

B. Time and Labor Required -- As shown in **Exhibit “C,”** the professional services rendered by Applicant on behalf of the Debtor have been divided into discrete categories which further clarify the necessity and benefit of the services rendered. These categories, a brief description of the services provided thereunder, and the fees charged in each category are as follows:

(i) **Case Administration** – Since the Employee Committee was established and selected counsel well after the Petition Date, it was necessary for Applicant to dedicate a significant amount of time becoming familiar with the parties and issues involved in these cases, reviewing pleadings filed which affected the constituency of the Employee Committee, establishing procedures to coordinate efforts with the Kronish firm and handling administrative matters. Applicant provided the above-described services for a total of \$53,192.00, reflecting 194.8 hours of professional services.

(ii) **Claims - Employees** – During the Application Period, Applicant spent time responding to employees’ inquiries regarding how their claims would be handled in the bankruptcy process. Applicant provided the above-described services for a total of \$12,672.00, reflecting 42.7 hours of professional services.

(iii) **Claims** – During the Application Period, Applicant reviewed the proposed procedure for estimation of claims. Applicant provided the above-described services for a total of \$592.50, reflecting 1.5 hours of professional services.

(iv) **Committee Meetings/Communications** – Since the Employee Committee was established well after the Petition Date and has a distinct role from the Creditors’ Committee, Applicant spent a significant amount of time meeting with the Employee Committee regarding its role in these cases, the fiduciary duties owed by members of an official committee, and researching and determining strategy for responding to and negotiating the various matters which uniquely affected the constituency of the Employee Committee, as well as general communications

³ See e.g., *Pennsylvania v. Delaware Valley Citizens Council for Clean Air*, 483 U.S. 711 (“Delaware Valley II”), on remand, 826 F.2d 238 (3d Cir. 1987); *Pennsylvania v. Delaware Valley Citizens Counsel for Clean Air*, 478 U.S. 546 (1986) (“Delaware Valley I”); *United States Football League v. National Football League*, 887 F.2d 408, 413 (2d Cir. 1989), cert. denied, 493 U.S. 1071 (1990); *Lindy Bros. Builders Inc. v. American Radiator and Standard Sanitary Corp.*, 487 F.2d 161 (3d Cir. 1973), vacated on other grounds, 540 F.2d 102 (3d Cir. 1976); *In re Cena’s Fine Furniture, Inc.*, 109 B.R. 575 (E.D.N.Y. 1990); *In re Drexel Burnham Lambert Group Inc.*, 133 B.R. 13, 21 (Bankr. S.D.N.Y. 1991).

regarding the status of these cases. Applicant provided the above-described services for a total of \$44,288.00, reflecting 120.3 hours of professional services.

(v) **Committee Responsibilities** – In light of the position taken by the Employee Committee regarding the scope of its responsibilities to its constituency relative to its role in these cases, Applicant reviewed and analyzed the expansion of scope of an official committee, performed extensive legal research regarding same, and began the preparation of a motion to expand or clarify the Employee Committee’s scope. Applicant provided the above-described services for a total of \$66,590.00, reflecting 210.1 hours of professional services.

(vi) **Current Employee Issues** – During the Application Period, Applicant reviewed the motion to approve the Debtors’ key employee retention policy (“KERP”), which affected current employees of the Debtors, prepared an objection to same and attended the hearing on same, which brought about a favorable outcome on behalf of the Employee Committee. Applicant provided the above-described services for a total of \$28,511.50, reflecting 92.3 hours of professional services.

(vii) **Employee Issues - Other** – Applicant reviewed various motions filed to determine the effect upon the current, former and retired employees of the Debtors and to determine a course of action regarding same. Further, Applicant responded to employee inquiries and communicated with employees regarding the status of these cases. Applicant provided the above-described services for a total of \$9,945.50, reflecting 28.6 hours of professional services.

(viii) **Executory Contracts** – Upon the request of the Employee Committee, Applicant briefly reviewed and prepared an analysis of certain motions filed to assume and/or reject executory contracts. Applicant provided the above-described services for a total of \$217.50, reflecting 1.5 hours of professional services.

(ix) **Fee Application** – Applicant reviewed the procedures for filing monthly fee statements and fee applications, and prepared, filed and served the April Statement and May Statement pursuant to the Procedures Order. Applicant is not presently seeking compensation for preparation of this Application.⁴ Applicant provided the above-described services for a total of \$3,703.00, reflecting 18.7 hours of professional services.

(x) **Fee Application - Others** – During the Application Period, Applicant reviewed and prepared an analysis of fees submitted for approval by the professionals in these cases. Applicant provided the above-described services for a total of \$2,367.50, reflecting 15.8 hours of professional services.

(xi) **Insurance** – During the Application Period, Applicant reviewed the motions filed by the Debtors to pay litigation fees from the officers and directors insurance policies

⁴ In the event that objections are filed to this Application, Applicant reserves the right to seek reimbursement for preparation and defense of this Application, as well as any substantial contribution claims Applicant may have. At present, however, Applicant is not seeking compensation for these issues.

and/or the ERISA insurance policies. Applicant filed a limited joinder of objection to the Debtors' motions, communicated with the parties and attended the hearing on same. Applicant was successful in its effort to clarify the use of the proceeds from those insurance policies. Applicant provided the above-described services for a total of \$10,810.50, reflecting 33.7 hours of professional services.

(xii) **Notice** – One clear mandate of the Employee Committee was to act as the primary source of information to the employee constituency in these cases. Applicant assisted the Employee Committee in determining a course of action to provide notice to the approximate 4,500 former employees' and numerous current and retired employees, assisting in development of content for a web site to communicate up-to-the-minute events in these cases, and establishing a process for responding to employees inquiries. Applicant provided the above-described services for a total of \$66,412.50, reflecting 227.8 hours of professional services.

(xiii) **Plan** – Applicant communicated with the Debtors, the Creditors' Committee and other principals in these cases regarding proposed negotiations to establish a business plan which would be the basis for preparation of a plan of reorganization. Applicant provided the above-described services for a total of \$3,872.50, reflecting 9.8 hours of professional services.

(xiv) **Post-Petition Litigation** – Applicant began the analysis and legal research relating to causes of action to recover monies paid by the Debtors pre-petition on a potentially fraudulent or preferential basis. Applicant provided the above-described services for a total of \$5,100.00, reflecting 25.5 hours of professional services.

(xv) **Retention** – Applicant worked closely with the Kornish firm in preparation of retention pleadings for both firms in an effort to accurately reflect the distinct differences in the proposed representation of McClain and the Kronish firm. Applicant also prepared responsive pleadings to the objections filed by the Creditors' Committee and the UST and attended the hearing regarding same. Applicant provided the above-described services for a total of \$34,938.50, reflecting 133.3 hours of professional services.

(xvi) **Retention of Professionals** – Applicant drafted retention pleadings for Triad Communication Inc., the communications specialists and consultants for the Employee Committee, and coordinated information regarding same with the Employee Committee. Applicant's role also involved rendering services regarding the scope and desired content of the notice program. Applicant provided the above-described services for a total of \$7,467.00, reflecting 29.3 hours of professional services.

(xvii) **Severed Employees Issues** – Even though the Kronish firm was responsible for handling severance issues on behalf of the Employee Committee, Applicant received inquiries from former employees with various severance-related questions. Applicant also reviewed severance issues as they related to the issues Applicant was addressing on behalf of the Employee Committee, such as KERP and insurance issues. Applicant provided the above-described services for a total of \$2,745.00, reflecting 8.6 hours of professional services.

(xviii) **Travel** – During the Application Period, Applicant traveled to New York for hearings and meetings with counsel for the Debtors, the Creditors’ Committee and the UST. Whenever Applicant performed work on behalf of the Employee Committee while traveling, Applicant reduced travel hours accordingly and reflected it in its billings. Pursuant to the Procedures Order, Applicant billed 50% of all non-working travel. Applicant provided the above-described services for a total of \$5,685.00, reflecting 49.6 hours of professional services.

C. Amount Involved in the Case and Results Obtained – During the Application Period, the Applicant analyzed numerous motions which affected the Employee Committee and their constituency. The current and former employees are significant stakeholders in these cases, with some published estimates putting the value of employee claims in the billions. As a result of the services rendered by Applicant, the Employee Committee was more organized, focused and able to begin the task of representing its constituents.

D. The Novelty and Difficulty of the Legal Problems Involved – Since the Employee Committee was established late in these cases, and Applicant was retained even later, Applicant was confronted with the task of becoming familiar, on an expedited basis, with the issues of importance to the employees in one of the largest chapter 11 proceedings ever filed. The appointment of an Employee Committee was relatively unusual in itself. In addition, there were various novel and difficult issues during the Application Period. Applicant immediately needed to become familiar with and respond to motions filed regarding KERP and severance. Because these conditions were dealt with on an accelerated basis, they required a high degree of skill and expertise.

E. Skill Required for Performance of Legal Services – A significant number of difficult and complex legal and procedural problems have been addressed and considered by the Applicant, all of which have required knowledge of the application of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “Rules”) and Court decisions interpreting the same. The Applicant’s attorneys, with varying levels of experience and seniority, have been used effectively and

efficiently to perform the tasks assigned to them. A thorough understanding of the Bankruptcy Code and the Rules was blended with business expertise to advise the Employee Committee regarding its role in these cases and coordination with the various groups competing for the Debtors' assets.

F. Preclusion from other Employment -- Applicant treated its representation of the Employee Committee as a priority matter. As a result, the time involved and the scope of attention demanded of Applicant by the Employee Committee had an impact on time available for other matters. Efficient management of these cases has required that some of Applicant's professionals devote their time exclusively to the Employee Committee, reducing their availability to participate in other matters upon which they were previously engaged or could otherwise have been engaged. As a consequence of the size of these cases and the sophistication of the issues presented, Applicant was forced to devote the majority of its resources to these cases and turned down other, significant, matters in order to ensure that the Employee Committee would be adequately represented.

G. Reasonable Rates – The fees charged for services are the same as those charged to other clients for similar legal services during the period of time involved. The fees Applicant is charging here are eminently reasonable, particularly under the circumstances of these cases. Applicant's rates are consistent with, or below, those of other law firms of requisite and comparable skill and ability. Moreover, Applicant's rates are particularly competitive when viewed in relation to rates charged by other firms having significant involvement in these cases.

H. Awards in Similar Cases – Consistent with the Procedures Order, detailed time records were provided to the Debtors on a monthly basis. Applicant's monthly statements set forth in detail (i) the nature of the legal services rendered by Applicant, (ii) the dates on which Applicant's personnel rendered such legal services, (iii) the identity of Applicant's attorneys and legal assistants that performed such legal services (denoted by each person's initials), (iv) the time spent by

each of Applicant's personnel in performing such legal services, and (v) the amount of fees attributable to each such legal service performed by Applicant's attorneys and legal assistants (calculated on a daily basis). The billing statements previously provided to the Debtor detailed the nature and extent of the legal services that Applicant rendered for and on behalf of the Debtor.

24. Applicant has necessarily incurred out-of-pocket expenses in connection with its representation of the Employee Committee. Careful records of these expenditures were maintained and are summarized in **Exhibit "D-1"** to this Application. These expenses are reasonable and necessary. Applicant is entitled to reimbursement of the requested expenses.

I. Time Limitation or Other Circumstances – During the Application Period, Applicant's attorneys have made themselves readily available to the Employee Committee as matters arose. Applicant successfully handled the time limitations imposed in these cases and has been instrumental in the resolution of the KERP motion and other issues related to the constituency of the Employee Committee.

25. The time constraints frequently imposed by the circumstances of these cases has required Applicant's attorneys and employees to devote a substantial amount of time during the evenings and weekends in its representation of the Employee Committee.

26. Therefore, attorneys and other employees who worked evenings and on weekends on behalf of the Employee Committee were reimbursed for their reasonable meals costs. In addition, the cost for overtime A/C was incurred and charged to the Employee Committee. Applicant's regular practice is not to include components for those charges in overhead when establishing billings rates and to charge its clients for these and all other out-of-pocket expenses incurred during the regular course of its representation. Applicant has made every effort to minimize its expenses in these cases.

The actual expenses incurred in providing professional services were necessary, reasonable and justified under the circumstances to serve the needs of the Employee Committee in these cases.

27. The services rendered by Applicant's experienced professionals during the Application Period, particularly in light of the nature of these cases, fully warrant the allowance of the fees requested by Applicant. Moreover, Applicant's fees reflect a deliberate attempt by Applicant to limit its fees and expenses to those that are reasonable and necessary. Thus, Applicant's request for allowance of its fees is amply justified and should be granted in its entirety.

J. Experience, Reputation and Ability of Applicant – The Applicant has established itself as a recognized source of experienced, capable professionals in commercial bankruptcy cases. Since 1990, David P. McClain has appeared as attorney for debtors, secured creditors, unsecured creditors, and official committees in proceedings under the Bankruptcy Code. Attorneys employed by the Applicant have represented some of the largest corporations to file under chapter 11 in Texas and in the United States, including General Homes Corporation, Dow Corning Corporation, National Convenience Stores, Inc., and others. Further, attorneys employed by the Applicant have represented creditors' committees in complex chapter 11 bankruptcy cases including Rankin Automotive Group, Inc., Houston Convenience, L.P., Consolidated Equipment Companies, Inc., *et al.*, and Lifestream International, Inc., *et al.* The biographies of David P. McClain, Michael Leppert, shareholders; and J. Casey Roy, Nicole M. Bartee and Jeffrey B. Price, associates, are set forth in **Exhibit "E."** The firm is experienced in complex bankruptcy matters and enjoys a good reputation as a bankruptcy boutique.

K. Nature and Length of Attorney-Client Relationship – The Applicant was retained by the Employee Committee on April 2, 2002. Applicant previously represented an ad hoc committee of former and retired employees in their efforts to have an employee committee formed.

Applicant served in this capacity on a pro bono basis from early December 2001 through the date the Employee Committee was formed. Upon Applicant's selection by the Employee Committee as co-counsel, Applicant resigned as counsel to the ad hoc committee. No legal services were rendered to the Employee Committee by the Applicant prior to its retention.

L. Voluntary Reductions -- Applicant has carefully reviewed all of its time records and out-of-pocket expenses, and has voluntarily reduced its fees and expenses where: (i) possible duplication of efforts may have occurred; (ii) fees were incurred for what might be considered administrative time; and (iii) potentially duplicative fees were incurred in connection with various meetings among professionals of Applicant for organization of these cases. Applicant does not charge at this time for certain expenses, such as secretarial overtime and related expenses, some file maintenance tasks, and charges for various supplies used in connection with these cases.

M. Contingent Nature of Fees – The Applicant's fees are subject only to Court approval and the Debtors' operations ensuring that funds are available to pay such administrative expenses. At the present time, the Applicant believes that the estates have sufficient funds with which to pay the fees and expenses.

N. Undesirability of these Cases – In the context of representing the employees, these cases contain no element of undesirability.

28. At all times covered by this Application, the Applicant diligently fulfilled its duties as attorneys for the Employee Committee. All services rendered by the Applicant were necessary, proper and beneficial to the bankruptcy estates. Services performed by the Applicant throughout these cases were rendered in a professional, skilled and expeditious manner, requiring substantially less time than would have been required by counsel with less experience. Every action of the Applicant was taken to reduce the legal hours expended and matters not demanding the services of senior attorneys were

assigned to associates or legal assistants. WHEREFORE, PREMISES CONSIDERED, the Applicant respectfully requests final allowance of legal fees in the amount of \$359,100.50 and out-of-pocket expenses incurred in the amount of \$19,339.74 previously requested and \$1,225.00 not previously invoiced, for a total of \$379,665.24, be awarded to the Applicant and that the Applicant have such other and further relief to which it may be entitled.

Dated: July 24, 2002
Houston, TX

McCLAIN & SIEGEL, P.C.

By: /s/ David P. McClain

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