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ATTORNEYS FOR THE AD HOC COMMITTEE OF BONDHOLDERS OF MIRANT AMERICAS GENERATING, LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

In re	§	**Chapter 11 Case**
MIRANT CORPORATION, et. al.,	§	**Case No. 03-46590-DML**
Debtors.	§	**Jointly Administered**

VERIFIED APPLICATION OF THE AD HOC MAG COMMITTEE FOR ALLOWANCE OF COMPENSATION FOR FEES AND REIMBURSEMENT OF EXPENSES PURSUANT TO SECTION 1129(A)(4) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 9019 OR, ALTERNATIVELY, SECTION 503(b) OF THE BANKRUPTCY CODE

TO: THE HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE

COMES NOW the Ad Hoc Committee of Bondholders of Mirant Americas Generation, LLC (the "Ad Hoc MAG Committee"), holders of portions of the bond and/or bank debt arising under the (i) $500 million of 7.625% Senior Notes due 2006, (ii) $300 million of 7.2% Senior Notes due 2008, (iii) $850 million of 8.3% Senior Notes due 2011, (iv) $450 million of 8.5%

Senior Notes due 2021, (v) $400 million of 9.125% Senior Notes due 2031, (vi) $250 million Facility B Credit Agreement, dated as of August 31, 1999, among Southern Energy North America Generating, Inc. (n/k/a Mirant Americas Generation, LLC), the financial institutions party thereto and Lehman Commercial Paper Inc., as Agent and (vii) $50 million Facility C Credit Agreement, dated as of August 31, 1999, among Southern Energy North America Generating, Inc. (n/k/a Mirant Americas Generation, LLC and referred to herein as "MAG"), the financial institutions party thereto and Lehman Commercial Paper Inc., as Agent (the claims of holders of the bond and bank debt described in preceding clauses (i) through (vii), collectively, the "MAG Note Claims"), by and through their counsel, Kirkland & Ellis, LLP ("K&E") and co-counsel Hurt & Lilly, LLP ("H&L" and, together with K&E, the "Ad Hoc MAG Counsel"), submit this application (the "Application") for entry of an order pursuant to (i) section 1129(a)(4) of title 11 of the United States Code (the "Bankruptcy Code") and (ii) Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") or, alternatively, sections 503(b)(3)(D) and (b)(4) of the Bankruptcy Code and Local Rule 2016, for reimbursement of compensation for professional services rendered and for reimbursement of expenses incurred in connection with services performed by the Ad Hoc MAG Counsel from May 24, 2004 (the "Retention Date") through the Effective Date of the Debtors' Amended and Restated Second Amended Joint Chapter 11 Plan of Reorganization (the "Mirant Plan") on January 3, 2006 (the "Compensation Period"). In support of this Application, the Ad Hoc MAG Committee respectfully represents as follows:[1]

[1] Any capitalized term used herein but not defined herein shall have the meaning ascribed to such term in the Mirant Plan and related Disclosure Statement or in the Mirant Plan Term Sheet attached as Exhibit 99.2 to the Form 8-K filed by Mirant Corporation on September 7, 2005 (the "Mirant Plan Term Sheet"), as applicable.

PRELIMINARY STATEMENT

1. The Ad Hoc MAG Committee played an essential role in the Chapter 11 Cases — one of the largest, most complex and ultimately successful reorganizations in recent years. Indeed, in recognition of the Ad Hoc MAG Committee's contribution, virtually every major party in the Chapter 11 Cases — the Debtors, the Official Committee of Unsecured Creditors of Mirant Corporation, the Official Committee of Equity Holders and the Official Committee of Unsecured Creditors of MAG — unanimously agreed that the Ad Hoc MAG Committee should be reimbursed for the fees and expenses of its legal counsel up to an amount of $3.5 million, a significantly *larger* amount than the $2,884,094.11 in fees and expenses for which the Ad Hoc MAG Committee seeks reimbursement pursuant to this Application. Moreover, the Court confirmed the Mirant Plan, which provides for reimbursement of the Ad Hoc MAG Committee's fees and expenses up to $3.5 million, subject to review for reasonableness.

2. The Ad Hoc MAG Committee was formed in May 2004 to represent the interests of certain holders of MAG's long-dated notes (the "MAG Long-term Notes") and MAG's short-dated notes (the "MAG Short-term Notes" and, together with the MAG Long-term Notes, the "MAG Notes"). At its height, the Ad Hoc MAG Committee represented the largest single concentration of MAG noteholders in the Chapter 11 Cases, comprising eight financial institutions that collectively held approximately $900 million of claims against the Debtors and approximately $630 million of MAG Notes.

3. As demonstrated below, the Ad Hoc MAG Committee's participation in the Chapter 11 Cases ultimately conferred direct and demonstrable benefits not only on its members, but also on all of MAG's creditors, the Debtors' estates and all of the Debtors' creditors.

4. First, the Ad Hoc MAG Committee played a unique organizational and representative role in the Chapter 11 Cases. By organizing the holders of significant MAG claims into a single group with a common agenda and negotiating position, the Ad Hoc MAG Committee made it exponentially easier for all parties to reach a negotiated settlement. The Ad Hoc MAG Committee's concentration of creditor interests significantly reduced the number of potential adversaries and narrowed the range of issues that might be disputed. Indeed, were it not for the Ad Hoc MAG Committee's organizing role, the Debtors would have been forced to negotiate a plan and potentially wage a confirmation battle against multiple MAG creditors, each with its own agenda and set of demands. Fortunately, the Ad Hoc MAG Committee was able to bring these creditors together, reconcile their diverse interests and pursue a common strategy on their behalf.

5. Second, by virtue of the Ad Hoc MAG Committee's size and the control it exerted over its members, the Ad Hoc MAG Committee enabled other constituents either to negotiate on behalf of the MAG Noteholders or make concessions to the MAG Noteholders with the assurance that any agreement reached would actually receive substantial MAG Noteholder support. This reduced a great deal of uncertainty and made the negotiating parties more willing to compromise than they might have been otherwise. For example, the Official Committee of Unsecured Creditors of MAG (the "Official MAG Committee") — which regularly consulted with the Ad Hoc MAG Committee — could negotiate on behalf of the MAG Noteholders with confidence that its proposals to the Debtors would be supported by the Ad Hoc MAG Committee and its substantial MAG Note holdings. Likewise, the Debtors could compromise with the Ad Hoc MAG Committee with confidence that any agreement reached would receive guaranteed support from holders of in excess of $600 million of MAG Notes.

6. Third, during the fall of 2005, owing to changes in the composition of the Official MAG Committee, the Ad Hoc MAG Committee's role as a major representative of the MAG Long-term Noteholders became even more important, as the Ad Hoc MAG Committee was uniquely positioned to understand the MAG Long-term Noteholders' objectives, communicate their position to other parties and secure their support for a consensual plan.

7. Fourth, the Ad Hoc MAG Committee directly benefited *all* MAG creditors through its concerted and ultimately successful effort to secure a full recovery for MAG's creditors from the solvent MAG estate. Indeed, the Debtors did not confirm that MAG's unsecured creditors were entitled to a full recovery until the conclusion of the Chapter 11 Cases, and the Debtors' proposed distributions to MAG's unsecured creditors appeared to provide significantly less than a full recovery until the plan was confirmed in December 2005. Thus, the Ad Hoc MAG Committee's continued participation through the conclusion of the Chapter 11 Cases was necessary to ensure that MAG's creditors would receive the full recovery to which they were entitled under the Bankruptcy Code. In the course of negotiating a full recovery for MAG's creditors, the Ad Hoc MAG Counsel developed a framework for treatment of the MAG Notes that ultimately yielded increased recoveries for the members of MAG Debtor class 5, which included the MAG Short-term Notes, and MAG Debtor Class 6, which comprised the MAG Long-term Notes.

8. Finally, the Ad Hoc MAG Committee conferred a direct benefit on all parties in the Chapter 11 Cases through its pivotal contribution to the final global settlement. Through the Ad Hoc MAG Counsel, the Ad Hoc MAG Committee was at the forefront of the final negotiations and played a leading role in drafting central terms of the settlement, such as the lock-up agreements evidencing the MAG Long-term Noteholders' support for the Debtors'

proposed plan. Moreover, Ad Hoc MAG Counsel single-handedly delivered lock-ups representing well in excess of half of the MAG Long-term Noteholder support that was required in order for the final global settlement to become effective. Just as important, the Ad Hoc MAG Committee satisfied certain other conditions to the final global settlement that only it could satisfy, such as the condition that it withdraw its appeal of the Court's impairment ruling and its objection to the Debtors' most recent disclosure statement. Consequently, the Ad Hoc MAG Committee's participation was absolutely essential to the successful resolution of the Chapter 11 Cases and provided a direct and substantial benefit to the Debtors and all of their stakeholders.

9. Perhaps the clearest evidence that the Ad Hoc MAG Committee made an extraordinary contribution to the Chapter 11 Cases is that the Debtors, the three official committees and Phoenix — virtually every major participant in the Chapter 11 Cases and thus the parties most qualified to evaluate the significance of any party's contribution — unanimously agreed in the final settlement that the Ad Hoc MAG Committee's professional fees and expenses should be reimbursed.

10. Moreover, the Ad Hoc MAG Committee's participation in the Chapter 11 Cases was characterized by efficiency and economy. Thus, the Ad Hoc MAG Committee participated only in those hearings that could directly affect the recoveries of its members and filed pleadings and performed other work only when absolutely required to effectively represent its members' interests. Significantly, the Ad Hoc MAG Committee made concerted and systematic efforts to avoid duplication of effort or function with the Official MAG Committee.

11. In light of the foregoing, and as demonstrated further below, the Ad Hoc MAG Committee respectfully submits that it is entitled to reimbursement of Ad Hoc MAG Counsel's fees and expenses in the amount of $2,884,094.11 pursuant to Bankruptcy Rule 9019 and section

1129(a)(4) of the Bankruptcy Code or, alternatively, pursuant to section 503(b) of the Bankruptcy Code based upon the Ad Hoc MAG Committee's substantial contribution to the Chapter 11 Cases.

BACKGROUND

I. Formation Of The Ad Hoc MAG Committee And Early Participation

12. During May 2004, a group of MAG Noteholders agreed to pool their resources and retain common counsel to represent their interests in the Chapter 11 Cases. The Ad Hoc MAG Committee was subsequently formed and the Ad Hoc MAG Counsel engaged to participate in the Chapter 11 Cases on its behalf. The terms of the engagement are set forth in the engagement letters annexed hereto as **Exhibit A**.

13. At the time of its formation, the Ad Hoc MAG Committee was comprised of five members holding in excess of $417 million of MAG Note Claims. At the time the Mirant Plan Term Sheet was executed, the Ad Hoc MAG Committee had grown to comprise eight members holding in excess of $645 million of MAG Note Claims.

14. The Ad Hoc MAG Committee commenced its active participation in the Chapter 11 Cases in August 2004 by filing a response in support of the motion filed by the Official MAG Committee seeking to compel the Debtors to enter into certain hedging transactions for the benefit of MAG and MirMA (the "Hedging Response"). At this time, the Debtors had not confirmed whether MAG was solvent, much less whether the MAG Noteholders would receive a full recovery.[2] Accordingly, the Ad Hoc MAG Committee filed the Hedging Response both to

[2] As the Hedging Response noted, "If all parties agreed today that MAGI is solvent and that MAGI's creditor's would be paid the full amount of their claims ... at confirmation ..... then MAGI's shareholders would bear the risk (Continued...)

reduce the likelihood of a loss of MAG estate value that would foreclose a full recovery and to elicit a statement regarding MAG's solvency from the Debtors.

15. The Ad Hoc MAG Committee also filed a number of pleadings to enable Ad Hoc MAG Counsel to become "Permitted Persons" and thus obtain access to information deemed confidential by the Debtors. This was necessary, as the Debtors had filed a number of significant pleadings under seal and was willing to share important information and otherwise enter into settlement discussions only with parties bound by confidentiality restrictions. Consequently, the Ad Hoc MAG Committee could acquire the basic information it needed to be able to participate in the Chapter 11 Cases only by filing such pleadings.

II. From the Disclosure Statement to the Mirant Plan Term Sheet

A. The Debtors File A Plan

16. On January 19, 2005, the Debtors filed a plan of reorganization (the "Initial Mirant Plan") and a related disclosure statement. After a period of analysis, on March 7, 2005 the Ad Hoc MAG Committee filed an informal written objection to the disclosure statement relating to the Initial Mirant Plan (the "Informal Objection"). The Informal Objection argued that, among other things, the Initial Mirant Plan was not confirmable because, while purporting to reinstate the MAG Long-term Notes pursuant to section 1124 of the Bankruptcy Code, the Initial Mirant Plan actually substantially impaired the Long-term Noteholders by, for example, failing to cure existing defaults, triggering new defaults and fundamentally altering the Long-term Noteholders' legal, equitable, and contractual rights via the creation of a new intermediate

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... Today, however, there is no agreement to such treatment for MAGI's creditors." See Hedging Response, at para. 2.

holding company structure, the substantive consolidation of the MAG Debtors, the failure to pay post-petition interest at the interest rate applicable under the MAG Long-term Notes and the releases of the MAG creditors' personal and derivative claims.

17. On March 25, 2005, the Debtors filed the First Amended Plan (the "First Amended Mirant Plan"). On April 11, 2005, the Ad Hoc MAG Committee filed a formal objection to the amended disclosure statement reiterating the arguments made in the Informal Objection. On April 20, 2005, the Ad Hoc MAG Committee filed the Motion For Order Determining That Certain Creditors Of Mirant Americas Generation, LLC Are Impaired Under The Debtors' First Amended Joint Chapter 11 Plan Of Reorganization And Thus Entitled To Vote On The Plan. The Court subsequently determined that, while certain potentially troubling provisions of the First Amended Mirant Plan would be considered at the confirmation hearing, certain other provisions of the First Amended Mirant Plan would not impair the MAG Long-term Noteholders, whereupon the Ad Hoc MAG Committee, the Official MAG Committee and certain other parties appealed the Court's ruling.

III. From The Mirant Proposal To Confirmation

18. By the late summer of 2005, the Debtors and the Official MAG Committee had reached an impasse regarding treatment of the MAG Short-term Notes and the MAG Long-term Notes, and Ad Hoc MAG Counsel began its active participation in the settlement negotiations. As discussed below, such participation eventually helped lead to a breakthrough in the negotiations and helped secure the support of MAG's unsecured creditors for the Mirant Plan Term Sheet, enabling the Debtors to emerge from chapter 11.

A. The Initial Mirant Proposal

19. On August 26, 2005, the Debtors circulated a term sheet that was supported by the Debtors' management and the Official Mirant Committee (the "Initial Mirant Proposal"). Unfortunately, despite the fact that the Debtors had acknowledged during the valuation hearing that MAG was solvent, even at this late stage in the Chapter 11 Cases, it was not at all clear that the MAG Long-term Noteholders and the MAG Short-term Noteholders would receive instruments with a value equal to their claims. Indeed, as described below, much along the same lines as the Initial Mirant Plan, the Initial Mirant Proposal appeared to provide MAG's unsecured creditors with considerably less than a full recovery.

20. First, with respect to the MAG Long-term Notes, while the Initial Mirant Proposal purported to reinstate the MAG Long-term Notes pursuant to section 1124 of the Bankruptcy Code, the restructuring transactions contemplated by the Debtors would structurally subordinate the MAG Long-term Notes to significant amounts of new indebtedness (the "Take-back Notes") that were to be issued by New MAG HoldCo to the MAG Short-term Noteholders under the proposed plan. As a result of the creation of New MAG HoldCo and the issuance of the Take-back Notes, the MAG Long-term Noteholders would be left in a significantly worse position than they occupied prior to the bankruptcy filing. In addition, the Debtors did not propose to provide any credit enhancement to MAG to compensate the MAG Long-term Noteholders for this subordination, while the credit enhancement the Debtors proposed to provide to New MAG HoldCo and MirMa was inadequate by itself to compensate the MAG Long-term Noteholders for their subordination.

21. Second, with respect to the MAG Short-term Notes, the Debtors proposed to distribute, at their sole option, either the Take-back Notes or cash. However, the Debtors could

not confirm that the Take-back Notes would be equivalent in value to the allowed amount of the MAG Short-term Noteholders' claims. Indeed, the Debtors would not discuss the terms of the Take-back Notes while they were negotiating the Exit Financing. Furthermore, the Initial Mirant Proposal provided that the MAG Short-Term Noteholders would not receive Additional Interest.

22. In addition, there was uncertainty regarding whether the Debtors had sufficient liquidity to cash-out the MAG Short-Term Notes, make the proposed interest payments to the reinstated maturity of the MAG Long-term Notes and leave New Mirant with the required working capital upon its emergence from chapter 11. In order to resolve the liquidity issue, the Debtors proposed to distribute to the MAG Short-Term Noteholders ninety percent of their claims in cash and ten percent in New Mirant Stock. However, this proposal created an additional problem, for if the MAG Short-term Noteholders voted against the Mirant Plan, the Debtors would have to demonstrate that the ninety percent cash/ten percent stock distribution would constitute payment in full.

23. Given that the MAG Debtors were solvent and thus that the MAG Long-term Noteholders and MAG Short-term Noteholders were entitled by law to a full recovery, the treatment set forth in the Initial Mirant Plan clearly was unacceptable and, moreover, arguably rendered any plan containing such treatment non-confirmable, further delaying the Debtors' emergence from chapter 11.

B. The Ad Hoc MAG Counsel Joins The Official MAG Committee In Negotiating Fair Treatment For The MAG Noteholders

24. The Ad Hoc MAG Counsel played a critical role in negotiating the much improved treatment of the MAG Noteholders set forth in the Mirant Plan Term Sheet. With respect to the MAG Short-term Noteholders, the Ad Hoc MAG Counsel helped to secure the

Debtors' agreement to pay Additional Interest and post-petition interest at the contract rate. With respect to the MAG Long-term Noteholders, the Ad Hoc MAG Committee helped to secure adequate treatment, including payment of post-petition interest at the contract rate (which included the Additional Interest) and the addition of two new covenants (the "Credit Enhancement Covenants") to the MAG Indenture, without which the MAG Long-term Noteholders could not be expected to support any plan providing for the reinstatement of the MAG Long-term Notes. In addition, the Debtors agreed to use commercially reasonable efforts to obtain a Standard & Poors' rating and a Moody's rating for each series of Long-term MAG Notes and the Take-back Notes issued under the Plan and to engage in good faith negotiations with the Official MAG Committee and the Ad Hoc MAG Committee regarding the terms of the Take-back Notes.

25. The Debtors conditioned the substantially improved treatment of the MAG Long-term Noteholders upon receipt by the Debtors of Lock-Up/Instruction Agreements from the holders of MAG Long-Term Notes in an agreed minimum aggregate amount. The Ad Hoc MAG Committee, through the Ad Hoc MAG Counsel, took the leading role in negotiating and drafting the Lock-Up/Instruction Agreements which required the MAG-Long term Noteholders to support the Debtors' forthcoming plan. In addition, the Ad Hoc MAG Counsel subsequently directed all efforts to obtain the requisite Lock-Up/Instruction Agreements and, on September 22, 2005, delivered Lock-Up/Instruction Agreements securing the support of the holders of in excess of $600 million of MAG Long-term Notes, thereby satisfying the basic precondition for a consensual plan. Indeed, on the following day the Debtors filed the Mirant Plan, which incorporated the key terms of the Mirant Plan Term Sheet. The Mirant Plan was

overwhelmingly approved by creditors and finally confirmed by the Court on December 9, 2005. On January 3, 2006, the Debtors emerged from chapter 11.

RELIEF REQUESTED

26. Pursuant to section 1129(a)(4) of the Bankruptcy Code and Bankruptcy Rule 9019, or alternatively, sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code, the Ad Hoc MAG Committee seeks full reimbursement of the Ad Hoc MAG Counsel's fees and expenses. Specifically, the Ad Hoc MAG Committee seeks reimbursement for K&E's compensation in the amount of $1,876,991.50, reflecting a blended hourly rate of $464.34, and reimbursement of expenses incurred in connection therewith in the amount of $45,898.90 for the Compensation Period. Copies of K&E's time records and a list of disbursements are being submitted concurrently to the Fee Review Committee in accordance with the Scheduling and Procedures Order for compensation of fees and expenses entered on February 14, 2006, docket no. 13235 (the "Compensation Order").

27. The Ad Hoc MAG Committee also seeks reimbursement of H&L's compensation in the amount of $911,817.11, reflecting a blended hourly rate of $293.33, and reimbursement of expenses incurred in connection therewith in the amount of $49,386.54 for the Compensation Period. Copies of H&L's time records and a list of disbursements are being submitted concurrently to the Fee Review Committee in accordance with the Compensation Order.

JURISDICTION AND VENUE

28. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, Paragraph 80 of the Confirmation Order and Article XVI of the Plan. Venue of these proceedings and this Application is proper in this district pursuant to 28 U.S.C. §§ 1408 and

1409. The statutory predicates for the relief sought herein are sections 105(a), 1123(b)(3) and 1129(a)(4) of the Bankruptcy Code, or, alternatively, sections 503(b)(3) and 503(b)(4) of the Bankruptcy Code, Bankruptcy Rule 9019 and Local Rule 2016.

ARGUMENT

29. For the reasons given below, the Ad Hoc MAG Committee respectfully submits that the Ad Hoc MAG Counsel's fees and expenses should be reimbursed pursuant to Bankruptcy Rules 9019 and Local Rule 2016 or, alternatively, sections 503(b)(3) and 503(b)(4) of the Bankruptcy Code.

I. The Ad Hoc MAG Counsel's Fees And Expenses Should Be Reimbursed Pursuant To Bankruptcy Rule 9019 As Part Of The Global Settlement Set Forth In The Mirant Plan And The Confirmation Order

A The Legal Standard

30. Bankruptcy Rule 9019 empowers a bankruptcy court to approve compromises and settlements if they are "fair and equitable and in the best interest of the estate." See In re Cajun Elec. Power Coop., Inc., 119 F.3d 349, 355 (5th Cir. 1997). "Compromises are favored in bankruptcy" because they minimize the costs of litigation and further the parties' interest in expediting administration of a bankruptcy estate. See In re Martin, 91 F.3d 389, 393 (3d Cir. 1996).

31. In addition, section 1129(a)(4) of the Bankruptcy Code requires that certain professional fees and expenses paid by the debtor, by a plan proponent or by a person issuing securities or acquiring property under the plan be subject to approval of the court as reasonable. See In re Briscoe Enters., 138 B.R. 795, 816-817 (N.D. Tex. 1992) (requiring that all payments

of professional fees made from estate assets be subject to review and approval by the court as to their reasonableness).

B. The Court Has Approved The Settlement Set Forth In The Mirant Plan Term Sheet As Fair, Equitable And In The Best Interests Of The Debtors

32. At the conclusion of the confirmation hearing, the Court approved the Mirant Plan, which incorporated the terms of the global settlement set forth in the Mirant Plan Term Sheet, pursuant to section 1123(b)(3) and (6) of the Bankruptcy Code and Bankruptcy Rule 9019. Specifically, Paragraph 21 of the Confirmation Order provides that:

> The settlement and compromise described in Sections 17.24 ... of the Plan is hereby approved, pursuant to sections 1123(b)(3) and (6) of the Bankruptcy Code and Bankruptcy Rule 9019, and the Debtors are hereby authorized to implement such settlement.

Section 17.24 of the Mirant Plan, referenced in Paragraph 21 of the Confirmation Order, describes the global settlement and compromise of certain claims in the Chapter 11 Cases, including those of the MAG Long-term Noteholders and MAG Short-term Noteholders:

> The Plan's treatment of the MAG Debtor Class 5 — Unsecured Claims, MAG Debtor Class 6 — Long-term Note Claims ... represent elements of a global settlement and compromise that has been reached among the Debtors, the Committees and Phoenix. This settlement provides benefit to all parties in interest in these Chapter 11 Cases by allowing confirmation of the Plan to proceed and reducing the costs and uncertainty of litigation concerning the Plan and related issues.

33. Moreover, Section 6.2(d)(ii) of the Mirant Plan provides for the reimbursement of the Ad Hoc MAG Counsel's fees and expenses:

> The Ad Hoc MAG Committee shall receive reimbursement from the Estates of the professional fees and expenses it has incurred in connection with the Chapter 11 Cases. Subject to a reasonable opportunity to review such professional fees and expenses, each of the Debtors and the Committees shall not object to such professional fees and expenses to the extent they do not exceed $3,500,000 in the aggregate.

34. Thus, at the conclusion of the confirmation hearing, the Court approved the provisions of the Mirant Plan Term Sheet applicable to the MAG Long-term Noteholders and MAG Short-term Noteholders, including, subject to an opportunity to review for reasonableness, reimbursement of the Ad Hoc MAG Counsel's fees and expenses.

35. The Debtors' agreement to reimburse the Ad Hoc MAG Committee for the Ad Hoc MAG Counsel's fees and expenses was part of a heavily-negotiated settlement that was entered into in good faith. Indeed, at the Confirmation Hearing, William Holden, Senior Vice-President and Treasurer of Mirant, testified by proffer that the Mirant Plan Term Sheet negotiations were conducted at arms'-length and culminated in an agreement that was entered in good faith. See Transcript of Mirant Confirmation Hearing, December 1, 2005 at 113-114:8.

36. The Debtors agreed to reimburse the Ad Hoc MAG Counsel's fees and expenses in consideration of the Ad Hoc MAG Committee's critical contribution to the Chapter 11 Cases including, without limitation, the Ad Hoc MAG Committee's:

- Active participation in the negotiation and structuring of the Mirant Plan Term Sheet, which formed the basis for the Mirant Plan and thus ultimately benefited the Debtors and their respective creditors and equity holders;
- Critical role in negotiating substantially improved treatment for the MAG Short-term Notes and the MAG Long-term Notes, which made possible the MAG Noteholders' unified support for the Mirant Plan;
- Critical role in negotiating and drafting the Lock-Up/Instruction Agreements evidencing the MAG Long-term Noteholders' support for the Plan; and
- Critical role in securing the support of the MAG Long-term Noteholders for the Mirant Plan and delivering the requisite Lock-Up/Instruction Agreements. Such support ultimately enabled the Debtors to accelerate the timetable for Confirmation and emerge from Chapter 11 much more rapidly than otherwise possible.

As noted above and discussed further below, the Ad Hoc MAG Committee conferred direct and demonstrable benefits not only on its members, but also on all of MAG's creditors, the Debtors' estates and all of the Debtors' creditors. First, the Ad Hoc MAG Committee organized the holders of significant MAG claims into a single group with a common agenda and negotiating position, thus facilitating negotiation of the final global settlement. Second, the Ad Hoc MAG Committee's size and discipline enabled other constituents either to negotiate on behalf of the MAG Noteholders or make concessions to the MAG Noteholders with the assurance that any agreement reached would actually receive substantial MAG Noteholder support. Third, towards the conclusion of the Chapter 11 cases and owing to changes in the composition of the Official MAG Committee, the Ad Hoc MAG Committee was uniquely positioned to understand the MAG Long-term Noteholders' objectives, communicate their position to other parties and secure their support for a consensual plan. Fourth, the Ad Hoc MAG Committee's vigorous advocacy ultimately secured a full recovery for MAG's creditors from the solvent MAG estate. Finally, the Ad Hoc MAG Committee, through the Ad Hoc MAG Counsel, was instrumental in negotiating central terms of the global settlement set forth in the Mirant Plan Term Sheet and delivered the support of MAG creditors holding more than $600 million of MAG Long-term Notes via the delivery of the requisite number of Lock-up/Instruction Agreements. As a direct result, the Ad Hoc MAG Committee satisfied certain preconditions to the effectiveness of the Mirant Plan Term Sheet that it alone could satisfy, making a consensual resolution of the Chapter 11 Cases possible.

37. Moreover, in consideration of the Ad Hoc MAG Committee's vital role in the Chapter 11 Cases, reimbursement of the Ad Hoc MAG Counsel's fees and expenses was supported by the Debtors, the Official Mirant Committee, the Official MAG Committee and the

Equity Committee — comprising virtually every major party in the Chapter 11 Cases and those most qualified to understand the magnitude of the Ad Hoc MAG Committee's contribution to the Debtors' reorganization. Under the case law, significant support from creditor groups counsels strongly in favor of granting a compromise and settlement. See, e.g., In re Foster Mortgage Co., 68 F.3d 914, 918 (5th Cir. 1995) (stating that the "bankruptcy court should consider the amount of creditor support for a compromise settlement as a factor bearing on the wisdom of the compromise.").

II. Alternatively, The Ad Hoc MAG Counsel's Fees And Expenses Should Be Reimbursed Pursuant To Section 503(b) Of The Bankruptcy Code

38. Even if the Court were to conclude that Bankruptcy Rule 9019 and section 1129(a)(4) of the Bankruptcy Code do not apply to this Application, the Court should still approve the Ad Hoc MAG Counsel's fees and expenses in full pursuant to section 503(b) of the Bankruptcy Code, as the Ad Hoc MAG Committee undeniably has made a substantial contribution to the Chapter 11 Cases.

A. Section 503(b) Of The Bankruptcy Code

1. Section 503(b) of the Bankruptcy Code provides, in relevant part:

> (b) After notice and a hearing, there shall be allowed, administrative expenses ... including —
>
> (3) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by —
>
> (D) a creditor ... or a committee representing creditors or equity security holders other than a committee appointed under section 1102 of this title, in making a substantial contribution in a case under chapter 9 or 11 of this title;
>
> .....
>
> (4) reasonable compensation for professional services rendered by an attorney or an accountant of an entity whose expense is

> allowable under paragraph (3) of this subsection, based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under this title, and reimbursement for actual, necessary expenses incurred by such attorney or accountant . . . .

See 11 U.S.C. § 503. Together, sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code provide that the reasonable legal fees and actual and necessary expenses incurred by an informal committee in the process of making a substantial contribution in a chapter 11 case must be allowed as administrative claims. See, e.g., In re DP Partners Ltd., 106 F.3d 667, 672 (5th Cir. 1997).

B. The Meaning Of Substantial Contribution

39. The Bankruptcy Code does not define the term "substantial contribution," and the legislative history of section 503 of the Bankruptcy Code provides little guidance respecting what types of creditor conduct constitute a "substantial contribution." As a result, courts have gradually developed a working concept of substantial contribution that balances considerations of fairness and economy against the more pragmatic policy objective of section 503. That policy objective is universally understood as the promotion of active and meaningful creditor participation in reorganization cases. See, e.g., In re Consolidated Bancshares, Inc., 785 F.2d 1249, 1253 (5th Cir. 1986) (noting that "the policy aim of authorizing fee awards to creditors is to 'promote meaningful creditor participation in the reorganization process'").

(i) Creditor Must Provide Direct And Demonstrable Benefit To The Debtor's Estate and Other Creditors

40. The Fifth Circuit laid down the broad contours of its substantial contribution analysis in In re DP Partners Ltd., 106 F.3d 667. In DP Partners, an unsecured creditor concluded that the debtor's proposed plan undervalued the debtor's assets and subsequently

proposed a competing plan, which triggered a bidding war that resulted in confirmation of an amended version of the debtors' plan. The bankruptcy court, which approved the creditor's application for reimbursement pursuant to section 503, was reversed on appeal by the district court. However, on further appeal the Fifth Circuit reversed the district court, noting that in order for a creditor's conduct to qualify as a "substantial contribution," such conduct must "directly and demonstrably benefit all parties in the reorganization case." See In re DP Partners, Ltd. P'shp., 106 F.3d at 672; see also In re Gen. Homes Corp. FGMC, Inc., 143 B.R. 99, 103 (Bankr. S.D. Tex. 1992) (substantial contribution found when creditor provides "significant demonstrable benefit to the estate and creditors").

41. The Fifth Circuit ultimately concluded that the creditor provided the requisite direct and demonstrable benefit because its participation led to an amended plan with greater creditor recoveries. See DP Partners, 106 F.3d 667 at 673 (substantial contribution found where creditor's litigation and challenge to plan in confirmation battle resulted in amended debtor plan that distributed additional $3.0 million to creditors). Generally, the more parties that benefit from the creditor's participation, the more likely a court will be to find a substantial contribution. See Id; In re Schepps Food Stores, Inc., 1994 BANKR. LEXIS 1365 at *12 n. 3 (Bankr. S.D. Tex. 1994) (substantial contribution found where indenture trustee "provided benefit to not only its own constituents, but also the estate, other creditors and the equityholders").

42. The court should also consider statements from disinterested parties that support the claimant's assertion that its efforts constitute a substantial contribution. See In re United States Blinds, Inc., 103 B.R. 427, 430 (Bankr. E.D.N.Y. 1989) (corroborating statements from disinterested parties regarding substantial contribution claim "has proven to be a decisive factor

in awarding compensation"); In re General Oil Distributors Inc., 51 B.R. 794, 887 (Bankr. E.D.N.Y. 1985) (representations from "major unsecured creditors" supports granting substantial contribution claim).

(ii) Creditor's Substantial Contribution Can Take The Form Of Cooperation Or Challenge

43. Courts have found substantial contribution in situations where the creditor's participation in the reorganization was generally cooperative or otherwise constructive, as where the creditor facilitated negotiation and confirmation of the debtor's plan, collaborated with opposing parties to consensually resolve their differences or caused a third-party to take an action that directly benefited the bankruptcy estate. See, e.g., In re Granite Partners L.P., 213 B.R. 440, 446 (Bankr. S.D.N.Y. 1997) (substantial contribution found where "creditor took an active role in facilitating the negotiation and successful confirmation of the plan."); In re Richton Int'l Corp., 15 B.R. 854, 855-856 (Bankr. S.D.N.Y. 1981) (substantial contribution found where creditor's lawyer "facilitated the progress of these cases [by reconciling the Debtors and creditors, and] substantially aided the formulation and adoption of the Plan of Reorganization"); In re Service Merchandise Company, Inc., 256 B.R. 738, 743 (Bankr. M.D. Tenn. 1999) (court granted creditor's substantial contribution claim, noting that the "'air of cooperation' in a case of this size is rare .... Hotly litigated issues and scorched earth policies would have generated even larger professional fees and expenses."); In re Condere Corp., 251 B.R. 693, 694 (Bankr. E.D. Miss. 2000) (granting substantial contribution claim where creditor's organization of efforts to locate a viable purchaser for debtor resulted in "creditors receiv[ing] substantially more than they would have received" in the absence of such efforts.).

44. As illustrated by DP Partners, courts have also found substantial contribution in situations where the creditor's participation in the reorganization took a primarily litigation-based or otherwise offensive form. See Id., at 673 (creditor made substantial contribution "in terms of (a) discovery of the fraudulent conveyance potential litigation and its benefit going to the secured creditor; (b) termination of exclusivity; and (c) causing the Debtor to change its plan."); In re Milo Butterfingers', Inc., 218 B.R. 856, 859 (Bankr. N.D. Tex. 1997) (substantial contribution found where creditor filed a competing plan that led debtor to dismiss reorganization case and pay creditors in full.).

C. The Ad Hoc MAG Committee Has Made A Substantial Contribution To The Chapter 11 Cases

45. The Ad Hoc MAG Committee manifestly has made a substantial contribution to the Chapter 11 Cases for which reimbursement is appropriate under section 503(b)(3) of the Bankruptcy Code. As described below, all of the Ad Hoc MAG Committee's activities in the Chapter 11 Cases, from the beginning of its involvement through Confirmation, directly contributed to the ultimate consensual resolution of the Chapter 11 Cases.

46. Through the Ad Hoc MAG Counsel, the Ad Hoc MAG Committee:

- Actively participated in the negotiation and structuring of the Mirant Plan Term Sheet, which formed the basis for the Mirant Plan and thus ultimately benefited the Debtors and their respective creditors and equity holders;
- Negotiated substantially improved treatment for the MAG Short-term Notes and the MAG Long-term Notes, which made possible the MAG Noteholders' unified support for the Mirant Plan;
- Negotiated and drafted the Lock-Up/Instruction Agreements evidencing the MAG Long-term Noteholders' support for the Plan;
- Secured the support of the MAG Long-term Noteholders for the Mirant Plan and delivering the requisite Lock-Up/Instruction Agreements. Such support ultimately

enabled the Debtors to accelerate the timetable for Confirmation and emerge from Chapter 11 much more rapidly than otherwise possible; and

- Negotiated the enhancement of MAG's creditworthiness, without which the MAG Debtors likely could not have satisfied the requirements of section 1129(a)(11) of the Bankruptcy Code.

As demonstrated below, all of the foregoing activities conferred direct and demonstrable benefits not only on the Ad Hoc MAG Committee's members and the MAG classes 5 and 6 under the Mirant Plan, but also on all of MAG's other creditors, the MAG estate, the other Debtors and all of the other Debtors' creditors.

47. First, the Ad Hoc MAG Committee brought together creditors holding more than $630 million of MAG Notes into a single organization with a common agenda and negotiating position that ultimately delivered its support for a consensual plan. This concentration of interests significantly reduced the number of potential adversaries and narrowed the range of issues, facilitating a negotiated settlement. Without the Ad Hoc MAG Committee, the Debtors would have been forced to negotiate a plan and potentially wage a confirmation battle against multiple MAG creditors, each with its own agenda and set of demands. However, as a result of its strong leadership, the Ad Hoc MAG Committee was able to reconcile the diverse interests of its constituents and pursue a common strategy designed to maximize the recoveries of all the MAG Noteholders.

48. Second, by virtue of the Ad Hoc MAG Committee's size and the control it exerted over its members, other constituents were able either to negotiate on behalf of the MAG Noteholders or make concessions to the MAG Noteholders knowing that any agreement reached would actually receive substantial MAG Noteholder support. This reduced uncertainty and therefore made compromise more likely. For example, the Official MAG Committee could

negotiate on behalf of the MAG Noteholders with confidence that its proposals to the Debtors would be supported by the Ad Hoc MAG Committee and its substantial MAG Note holdings. Likewise, the Debtors could compromise with the Ad Hoc MAG Committee with confidence that any agreement reached would receive guaranteed support from holders of in excess of $600 million of MAG Notes.

49. Third, by the time the parties were on the brink of a final settlement in September 2005, as a result of changes in the composition of the Official MAG Committee, the Ad Hoc MAG Committee's function as a major representative of the MAG Long-term Noteholders became particularly important. Indeed, while the Official MAG Committee owed a fiduciary duty to the MAG Long-term Noteholders and undoubtedly would strive to maximize their recovery, the Ad Hoc MAG Committee, which then comprised eight sophisticated financial institutions that collectively held approximately $365 million of MAG Long-term Notes, was uniquely placed to understand the MAG Long-term Noteholders' interests, communicate their position to other parties and obtain their support for a consensual plan.

50. Fourth, through its vigorous advocacy the Ad Hoc MAG Committee developed a framework for treatment of the MAG Long-term Notes and MAG Short-term Notes that ultimately yielded full recoveries for *all* of MAG's creditors.[3] Unfortunately, despite MAG's solvency, a full recovery for the members of classes 5 and 6 — or indeed for any of MAG's

[3] In this respect, it is worth noting that the Ad Hoc MAG Committee members represented a relatively low percentage of the full outstanding amount of claims in their respective classes. Thus, at its height the Ad Hoc MAG Committee never held more than approximately 22% of the MAG Debtor Class 5 – Unsecured Claims and approximately 23% of the MAG Debtor Class 6 – MAG Long-term Note Claims. Consequently, the actions of the Ad Hoc MAG Committee benefited not only its members but also every member of MAG classes 5 and 6.

other creditors — was far from assured until the very conclusion of the Chapter 11 Cases. Over one year into the Chapter 11 Cases, full recovery remained an open question, as reflected in the arguments made in the MAG hedging litigation during the late summer of 2004. See Hedging Response, at ¶ 2. Over six months later, once the Debtors had filed the Initial Mirant Plan, full recovery still remained very much an open question, as the Initial Mirant Plan proposed a substantive consolidation that would have diluted the claims of MAG's creditors, provided MAG with virtually no recovery on over $1 billion of inter-company claims, transferred significant assets out of MAG, structurally subordinated the MAG Long-term Notes to massive amounts of new indebtedness without any corresponding credit enhancement and potentially deprived the MAG Noteholders of post-petition interest from a solvent MAG estate.

51. Moreover, even after the Debtors confirmed their intent to provide a full recovery, the form of the proposed distributions appeared to provide significantly less than a full recovery, as described above. The MAG Long-term Noteholders could not be reasonably certain of a full recovery until the confirmation hearing in December 2005. The MAG Short-term Noteholders, for their part, would remain uncertain even *after* the Confirmation Hearing, as the terms of the Take-back Notes, which the Debtors had merely agreed to negotiate with the Official MAG Committee and the Ad Hoc MAG Committee, remained undisclosed. Thus, the Ad Hoc MAG Committee's continued participation through the conclusion of the Chapter 11 Cases was necessary to ensure that all members of classes 5 and 6 under the Mirant Plan would receive the full recovery to which they were entitled under the Bankruptcy Code. As a direct result of the Ad Hoc MAG Committee's vigorous advocacy, all of MAG's creditors ultimately received the full recovery to which they were entitled to under the Bankruptcy Code.

52. In addition, in order to develop an internal consensus regarding distributions to the MAG Noteholders under a consensual plan, the Ad Hoc MAG Committee compromised the occasionally diverging claims of the MAG Long-term Noteholders and MAG Short-term Noteholders among its members, which compromise in turn increased recoveries to all MAG Long-term Noteholders and MAG Short-term Noteholders. In addition, the efforts of the Ad Hoc MAG Committee directly improved the recovery of third class of MAG creditors — the PG&E/RMR Claims — which received the same improved treatment as the MAG Short-Term Noteholders. Under the case law, all of the foregoing activities clearly constitute a substantial contribution. See, e.g., In re Pow Wow River Campground, 296 B.R. 81, 87-88 (Bankr. D.N.H. 2003) (creditor's efforts that increase recovery of such creditor's class qualify as a substantial contribution); In re W.G.S.C. Enters., 47 B.R. 53 (Bankr. N.D. Ga. 1985) (trade creditors who increased recovery of unsecured creditors from fifty percent to one hundred percent had made a substantial contribution); In re 9085 E. Mineral Office Bldg., Ltd., 119 B.R. at 252 (creditor that compromises its own claim and thereby increases the payout to other constituents has made a substantial contribution).

53. Finally, as a direct result of the Ad Hoc MAG Committee's participation, the fundamental preconditions for a consensual plan were satisfied, to the clear benefit of the Debtors and all other stakeholders in the Chapter 11 Cases. As described above, the Ad Hoc MAG Committee played a central role in the settlement negotiations that culminated in the Mirant Plan Term Sheet. Indeed, the Ad Hoc MAG Committee, through the Ad Hoc MAG Counsel, took the leading role in negotiating and drafting certain critical terms of the Mirant plan Term Sheet such as the Lock-up/Instruction Agreements. Moreover, as described above, once the Mirant Plan Term Sheet was finalized the Ad Hoc MAG Committee almost single-handedly

delivered the support for the Mirant Plan of some $621 million of MAG Long-term Noteholders. Such support was a condition precedent to the Debtors' improved treatment of the MAG Noteholders. Moreover, absent such improved treatment, at least a very significant portion of MAG Noteholders would have opposed the Mirant Plan. Thus, the Ad Hoc MAG Committee played a vital role in making a consensual resolution of the Chapter 11 Cases possible.

(iii) All Major Parties Acknowledged The Substantial Contribution Of The Ad Hoc MAG Committee

54. Perhaps the clearest evidence that the Ad Hoc MAG Committee made a substantial contribution to the Chapter 11 Cases is that the Debtors, the Official Mirant Committee, the Official Equity Committee and Phoenix, each of whose economic interests were at various points *diametrically opposed* to the Ad Hoc MAG Committee's, unanimously agreed that the Ad Hoc MAG Counsel's fees and expenses should be reimbursed. Moreover, because all of the Debtors' creditors voted overwhelmingly in favor of the Mirant Plan, they also have approved reimbursement of the Ad Hoc MAG Counsel's fees and expenses.

III. The Ad Hoc MAG Counsel's Fees And Expenses Are Reasonable

55. As demonstrated below, all of the fees and expenses incurred by the Ad Hoc MAG Committee during the Compensation Period and for which reimbursement is sought herein were reasonable under both Bankruptcy Rule 9019 and section 503(b) and absolutely necessary in order for the Ad Hoc MAG Committee to make its substantial contribution to the Chapter 11 Cases.

A. The Legal Standard

56. In order to merit reimbursement under section 503(b) of the bankruptcy Code, all expenses for which a creditor seeks reimbursement must be actual and necessary, while all fees

must be reasonable. See, e.g., In re DP Partners Ltd., 106 F.3d at 673 ("claimants successfully complying with the foregoing requirements will have to prove that claimed expenses were actual and necessary and that any fees are reasonable."). The applicable standard under Bankruptcy Rule 9019 for approving settlements is reasonableness, so to the extent that the Ad Hoc MAG Counsel's fees and expenses are reasonable under applicable law, they will also satisfy the Bankruptcy Rule 9019 standard.

57. When determining the reasonableness of attorneys' fees sought to be reimbursed in section 503 and other contexts, courts generally consider a range of factors including, without limitation, (i) the time and labor required; (ii) the amount involved and the results obtained; (iii) the novelty and difficulty of the questions involved; (iv) the skill required to perform the legal service properly, (v) the limitations imposed by the circumstances and (vi) the customary nature of the fees and expenses. See, e.g., In re DP Partners Ltd., 106 F.3d at 674; Arnold v. Babbit, WL 354395, *4 (N.D. Tex. 2000); Donihoo v. Dallas Airmotive, Inc., 1999 WL 740692, *2 (N.D. Tex. 1999).

B. The Ad Hoc MAG Counsel's Fees And Expenses Satisfy The Legal Standard

58. As demonstrated below, all of the fees incurred by the Ad Hoc MAG Committee during the Compensation Period were reasonable and the expenses necessary in order for the Ad Hoc MAG Committee to make its substantial contribution to the Chapter 11 Cases.

(i) Significant Time And Labor Required

59. The Ad Hoc MAG Counsel spent a significant amount of time and effort: (i) staying abreast of progress and key gating issues in the Chapter 11 Cases; (ii) preparing for and monitoring hearings in order to acquire a sufficient understanding of and familiarity with the

relevant facts and issues; (iii) formulating negotiation parameters that would ensure that all MAG creditors were paid in full; (iv) analyzing the impact of the Initial Mirant Proposal on MAG and MAG's creditors, developing viable alternatives and filing pleadings to protect the MAG creditors' rights to a full recovery; (v) meeting with the Official MAG Committee and its financial advisors to develop and define the Credit Enhancement Covenants; (vi) participating in lengthy, extensive, arms'-length negotiations with the Examiner, the Debtors, the Official Mirant Committee, the Official MAG Committee and the Equity Committee that resulted in the Mirant Plan Term Sheet and (vii) negotiating and subsequently complying with a disclosure protocol based on Bankruptcy Rule 2019.

60. Every aspect of the Ad Hoc MAG Committee's participation in the Chapter 11 Cases was absolutely critical to obtaining a full recovery for all of MAG's creditors and establishing the preconditions for a consensual plan that ultimately benefited the Debtors' estates and all of the Debtors' stakeholders. For example, it was of paramount importance that Ad Hoc MAG Counsel attend and/or monitor the weekly hearings to obtain current and accurate information on key issues in the Chapter 11 Cases in order to effectively represent the Ad Hoc MAG Committee. It was also important that Ad Hoc MAG counsel attend the Valuation Hearing, without which Ad Hoc MAG Counsel simply could not have acquired the sophisticated understanding of the Debtors' business and enterprise value it needed to competently and rapidly assess the Initial Mirant Proposal and the Mirant Plan Term Sheet.

61. In this respect, it should be noted that the Ad Hoc MAG Committee's members were not Permitted Persons and therefore could not participate directly in negotiations with the Debtors and other parties. As a result, the Ad Hoc MAG Committee's members ultimately

agreed to execute the Lock-Up/Instruction Agreements and thus support the Mirant Plan solely because of their confidence that Ad Hoc MAG Counsel had acquired sufficient knowledge and expertise over the course of the Chapter 11 Cases and had access to sufficient information to enable it negotiate acceptable terms.

62. In addition, all of the pleadings filed by Ad Hoc MAG Counsel during the Chapter 11 Cases were critical to making the substantial contribution. For example, the Hedging Response brought the issue of payment-in-full for MAG's creditors to the forefront at a relatively early stage in the Chapter 11 Cases. The Debtors' subsequent failure to acknowledge either MAG's solvency or the right of MAG's unsecured creditors to a full recovery confirmed that those creditors were still at great risk and likely would continue to be at great risk unless the Ad Hoc MAG Committee continued to vigorously protect their rights. Similarly, absent the work relating to the Ad Hoc MAG Counsel's access to confidential information, the Ad Hoc MAG Committee, through the Ad Hoc MAG Counsel, would never have been able to take a seat at the negotiating table and could never have recommended that its members and other MAG Noteholders support the Mirant Plan. Moreover, the litigation relating to the section 1124 reinstatement and scheduling of the disclosure statement hearing was intended to preempt and quickly resolve fundamental confirmation issues that otherwise could have significantly delayed the Debtors' emergence from chapter 11, at potentially great cost to the Debtors and their creditors.

63. The Ad Hoc MAG Counsel also were required to devote significant time and effort towards ensuring the Ad Hoc MAG Committee's compliance with a special disclosure protocol negotiated between Ad Hoc MAG Counsel and the Debtors. Specifically, once the Ad

Hoc MAG Committee became a significant player in the Chapter 11 Cases, the Debtors moved to subject the Ad Hoc MAG Committee to extensive disclosure obligations pursuant to Bankruptcy Rule 2019. The ensuing litigation between the Ad Hoc MAG Committee and the Debtors was ultimately settled via a compromise embodied in a negotiated disclosure protocol (the "Special Disclosure Protocol") that was approved by the Court. In order to comply with the Special Disclosure Protocol, however, the Ad Hoc MAG Counsel were required to collect, organize and analyze on a monthly basis voluminous information regarding the Ad Hoc MAG Committee Members' holdings of Debtor securities. This compliance work was time-consuming and labor-intensive, not surprising given the volume of data involved and the fact that the Ad Hoc MAG Committee could be excluded from participation in the Chapter 11 Cases if it failed to comply. Consequently, all of the work performed in connection with the Special Disclosure Protocol was a necessary cost without which the Ad Hoc MAG Committee could not have made its substantial contribution to the Debtors' reorganization.

64. Finally, the Ad Hoc MAG Committee's participation in the Chapter 11 Cases was characterized by efficiency and economy. The Ad Hoc MAG Committee participated only in those hearings that could directly affect the recoveries of its members and filed pleadings and performed other work only when absolutely required to effectively represent its members' interests. Moreover, the Ad Hoc MAG Counsel actively and systematically coordinated with the Official MAG Committee to avoid duplication of effort and argument. For example, the Ad Hoc MAG Committee and the Official MAG Committee regularly exchanged drafts of pleadings to ensure that neither committee was duplicating arguments made in any pleading prepared by the other. Ultimately however, this work benefited the entire estate in that it allowed meaningful participation by the Ad Hoc MAG Committee, while giving assurance to the Debtors and the

Official MAG Committee that the Ad -Hoc MAG Committee represented a meaningful portion of its class of creditors.

(ii) Complexity Of The Debtors' Business And Capital Structure

65. The Chapter 11 Cases involved eighty-three Debtors and a multitude of complex debt and equity arrangements scattered throughout a labyrinthine capital structure. For example, while substantial amounts of bond and note debt were concentrated at MAG, substantial amounts of other debt, and all of the Debtors' equity, were concentrated at Mirant and MAEM. In addition, there were substantial and complex inter-company debts and a number of esoteric lease arrangements.

(iii) Complexity Of The Legal And Financial Issues

66. The Valuation Hearing and the resulting settlement negotiations implicated some of the most novel and complex legal and financial issues in bankruptcy law. First, the Valuation Hearing was unprecedented in its sheer size and scope, involving valuations of diverse foreign and domestic assets; complicated financial analyses of the Debtors and their comparable companies and the presentation of widely divergent views on the methodology used to reach the valuations. The Court acknowledged the complexity and difficulty of the valuation issues in its Memorandum Opinion on valuation. See Memorandum Opinion at p. 27, 35. Second, since the Ad Hoc MAG Committee was a Valuation Party, it was able to receive and analyze the evidence in the context of the hearing and better understand the information presented at the subsequent negotiations which led to toward a consensual plan.

(iv) Limitations Imposed By The Circumstances

67. The unusual demand on time and labor imposed by the extraordinary complexity of the Chapter 11 Cases was compounded by the unique time pressures facing the Ad Hoc MAG Committee. Indeed, the Ad Hoc MAG Committee was formed — and the Ad Hoc MAG Counsel engaged to participate in the Chapter 11 Cases on its behalf — only in the summer of 2004, some twelve months after the Petition Date. As a result, the Ad Hoc MAG Counsel were required to become intimately familiar with the Debtors' businesses, capital structure and lease obligations and the history of the Chapter 11 Cases in a very short period of time.

(v) The Ad Hoc MAG Counsel's Fees Are Customary

68. The fees paid to the Ad Hoc MAG Counsel were based on their customary hourly billings and reasonable expenses incurred. To the best of the Ad Hoc MAG Committee's knowledge, information and belief, formed after reasonable inquiry, the fees and expenses for which it seeks reimbursement conform to the Guidelines (as defined below) and the compensation and expense reimbursement requested herein were billed at rates, and in accordance with practices, customarily employed by the Ad Hoc MAG Counsel and accepted by their clients. See Engagement Letters, copies of which are annexed hereto as **Exhibit A**.

69. In accordance with Local Rule 2016 and the Standing Order and Guidelines for Compensation and Expense Reimbursement of Professionals dated January, 1, 2001, United States Bankruptcy Court Northern District of Texas (together, the "Guidelines"), the Ad Hoc MAG Committee seeks reimbursement only of its actual cost for disbursements incurred both directly by the Ad Hoc MAG Counsel and from third-party vendors to the Ad Hoc MAG Counsel. With respect to photocopying expenses, the Ad Hoc MAG Committee seeks reimbursement at the rate of $0.15 per page, which was the rate charged by the Ad Hoc MAG

Counsel. With respect to facsimile expenses, the Ad Hoc MAG Counsel excluded charges for incoming facsimile and included charges for outgoing facsimiles at applicable toll charge rates. These charges are intended to cover the Ad Hoc MAG Counsel's direct operating costs for photocopying and facsimile facilities, which costs are not incorporated into the Ad Hoc MAG Counsel's hourly billing rates. The amount of the standard photocopying charge is intended to allow the Ad Hoc MAG Counsel to cover the related expenses of their photocopying services.

70. The time constraints and the travel requirements imposed by the circumstances of the Chapter 11 Cases, particularly during the negotiation of the Mirant Plan term Sheet, required the Ad Hoc MAG Counsel to devote substantial amounts of time during the evenings and on weekends to the performance of legal services in the Chapter 11 Cases. While not frequent, these extraordinary services were essential in order to meet deadlines in the Chapter 11 Cases.

71. Consistent with the Ad Hoc MAG Counsel's policies, attorneys, analysts and other employees of the Ad Hoc MAG Counsel who worked late into the evenings were reimbursed for their reasonable meal costs and their cost for transportation home. The Ad Hoc MAG Counsel's regular practices do not include components for those charges in overhead when establishing billing rates and to charge their clients for these and all other out-of-pocket disbursements incurred during the regular course of the rendition of services. The reimbursement of these requested disbursements is consistent with the provisions set forth in the Guidelines.

72. In addition, due to the composition of the Ad Hoc MAG Committee and the dispersion of parties-in-interest throughout the country, frequent conference calls and long-distance telephone calls have been required. On several occasions, overnight delivery of

documents and other materials was required as a result of emergencies necessitating the use of such express services. The actual expenses incurred in providing professional services were all necessary, reasonable and justified under the circumstances.

C. Reimbursement Of The Ad Hoc MAG Counsel's Fees And Expenses Will Have No Impact On The Debtors Or On Creditor Recoveries

73. Finally, it is worth noting that reimbursement of the Ad Hoc MAG Counsel's fees and expenses as requested herein will have no practical impact on the Debtors, as the Debtors are worth in excess of $11 billion and have ample cash and liquidity to support their operations. In addition, reimbursement will not impair the recoveries of the Debtors' other creditors. Given that the Ad Hoc MAG Committee undeniably has made a substantial contribution to the Chapter 11 Cases, these facts counsel strongly in favor of granting the relief requested in this Application. See In re Richton Int'l Corp., 15 B.R. at 856 ("This Court emphasizes that the Debtor's estate is well-able to pay the allowances granted with no impairment of other creditors.").

74. Moreover, upon information and belief, the Ad Hoc MAG Counsel's fees and expenses are considerably lower than the fees and expenses of professionals for other major constituents in the Chapter 11 Cases. Finally, unlike other professionals in the Chapter 11 Cases, the Ad Hoc MAG Committee is *not* seeking reimbursement for any success fee.

CONCLUSION

75. No agreement or understanding exists between the Ad Hoc MAG Counsel and any other person for a sharing of compensation received or to be received from the Ad Hoc MAG Counsel for services rendered in or in connection with the Chapter 11 Cases, nor shall the Ad Hoc MAG Counsel share or agree to share the compensation paid or allowed from the estates

for such services with any other person. The Ad Hoc MAG Committee has paid the Ad Hoc MAG Counsel for their services. Accordingly, the award of compensation pursuant to this Application will constitute a reimbursement to the Ad Hoc MAG Committee. No agreement or understanding prohibited by 18 U. S.C. § 155 has been or will be made by the Ad Hoc MAG Counsel. No prior application has been made to this or any other Court for the relief requested herein.

76. For each of the reasons set forth in this Application, the Ad Hoc MAG Counsel's fees and expenses should be reimbursed pursuant to Bankruptcy Rule 9019 or, alternatively, section 503(b) of the Bankruptcy Code.

WHEREFORE, the Ad Hoc MAG Committee respectfully requests (i) approval of reimbursement by the Debtors of the Ad Hoc MAG Counsel's fees and expenses pursuant to Bankruptcy Rule 9019 as being reasonable under the Mirant Plan and Confirmation Order, (ii) in the event reimbursement is not awarded pursuant to Bankruptcy Rule 9019, the Mirant Plan and the Confirmation Order, approval of reimbursement by the Debtors of the Ad Hoc MAG Counsel's fees and expenses pursuant to section 503(b) of the Bankruptcy Code based on the substantial contribution made by the Ad Hoc MAG Committee to the Chapter 11 Cases and (iii) such other and further relief as is just and proper under the circumstances.

Dated: Dallas, Texas
March 1, 2006

Respectfully submitted,

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In re	:	**Chapter 11**
	:	
MIRANT CORPORATION et al.,	:	**Case No. 03-46590 (DML)**
	:	
Debtors.	:	**(Jointly Administered)**

CERTIFICATION OF CERTIFYING PROFESSIONAL

The undersigned hereby certifies (a) that, he has been designated by the AD HOC MAG COMMITTEE ("Applicant") as the certifying professional (the "Certifying Professional") with respect to the reimbursement of Hurt & Lilly, LLP's fees and expenses contained within the application for reimbursement (the "Application"); (b) that, (i) he has read the Application and (ii) to the best of the Certifying Professional's knowledge, information and belief, formed after reasonable inquiry, the compensation and expense reimbursement sought is in general conformity with the Guidelines for Compensation and Expense Reimbursement of Professionals for the United States Bankruptcy Court, Northern District of Texas, effective January 1, 2001; (c) that, the compensation and expense reimbursement requested in the Application are billed at rates in accordance with practices no less favorable than those customarily employed by the Applicant for clients similarly situated and generally accepted by Hurt & Lilly, LLP's other clients; (d) that, the compensation requested in the Application meets the requirement of 503(b)(4) of the Bankruptcy Code as to reasonableness; and (e) under penalty of perjury that, the information contained in the Application with respect to Hurt & Lilly, LLP's fees and expenses and the foregoing statements is true and correct.

Jeffrey W. Hurt

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

In re	:	**Chapter 11**
	:	
MIRANT CORPORATION et al.,	:	**Case No. 03-46590 (DML)**
	:	
Debtors.	:	**(Jointly Administered)**

CERTIFICATION OF CERTIFYING PROFESSIONAL

The undersigned hereby certifies (a) that he has been designated by the Ad Hoc Committee of Bondholders of Mirant Americas Generation, LLC ("the Applicant") as the certifying professional (the "Certifying Professional") with respect to the reimbursement of Kirkland & Ellis, LLP's fees and expenses contained within the application for reimbursement (the "Application"); (b) that (i) he has read the Application and (ii) to the best of the Certifying Professional's knowledge, information and belief, formed after reasonable inquiry, the compensation and expense reimbursement sought is in general conformity with the Guidelines for Compensation and Expense Reimbursement of Professionals for the United States Bankruptcy Court, Northern District of Texas, effective January 1, 2001; (c) that the compensation and expense reimbursement requested in the Application are billed at rates in accordance with practices no less favorable than those customarily employed by the Applicant for clients similarly situated and generally accepted by Kirkland & Ellis, LLP's other clients; (d) that the compensation requested in the Application meets the requirement of section 503(b)(4) of the Bankruptcy Code as to reasonableness; and (e) under penalty of perjury that the information contained in the Application with respect to Kirkland & Ellis, LLP's fees and expenses and the foregoing statements is true and correct

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a true and correct copy of the foregoing document upon all persons on the Limited Service List and all parties on the attached FRC Service List via first class mail, postage prepaid on the 1st day of March, 2006 in accordance with the Federal Rules of Bankruptcy Procedure

Jeffrey W. Hart

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Verification

STATE OF NEW YORK)
)
COUNTY OF New York)

Personally appeared before me the undersigned authority Morgan Blackwell known to me to be the person whose name is subscribed hereto, who upon oath, deposed and said;

"1. My name is Morgan Blackwell I am an associate of Davidson Kempner Capital Management LLC who is a member of a group of entities that formed a group called the Ad Hoc MAGI Committee (hereinafter "Ad Hoc MAG Committee") and am authorized to make this verification on behalf of the Ad Hoc MAG Committee. I am not disqualified by law from making this Verification.

2. I have read the above and foregoing **VERIFIED APPLICATION OF THE AD HOC MAG COMMITTEE FOR ALLOWANCE OF COMPENSATION FOR FEES AND REIMBURSEMENTOF EXPENSES PURSUANT TO SECTION 1129(A)(4) OF THE BANKRUPTCYCODE AND BANKRUPTCY RULE 9019 OR, ALTERNATIVELY, SECTION 503(b) OF THE BANKRUPTCY CODE ("Application")** and state that the facts contained therein are either known to me personally to be true and correct, or as to the statements that refer to previously confidential information (e g information in sealed 2019 filings) were known to the Ad Hoc MAG Counsel and are true and correct to the best of my knowledge after reasonable inquiry."

Morgan Blackwell
Name:

SUBSCRIBED AND SWORN to before me by Morgan Blackwell on this the 28th day of February, 2006, to attest witness my hand and seal of office.

GHCastroman
Notary Public - State of New York
(GHCastroman)

GAIL I. HARTMAN
Notary Public, State of New York
No. 31-4891452
Qualified in New York County
Commission Expires May 4, 20 07