

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

<b>In re:</b>	:	
	:	<b>Chapter 11</b>
<b>ONCO INVESTMENT COMPANY,</b>	:	
<b>a Delaware corporation, <u>et al.</u>,</b>	:	<b>Jointly Administered</b>
	:	<b>Case No. 04-10558 (DDS)</b>
<b>Reorganized Debtors.</b>	:	
	:	<b>Objection Deadline: May 2, 2005 at 4:00 p.m.</b>
	:	<b>Hearing Date: To be determined</b>

**NOTICE OF FINAL FEE APPLICATION**

TO: Parties on the attached service list.

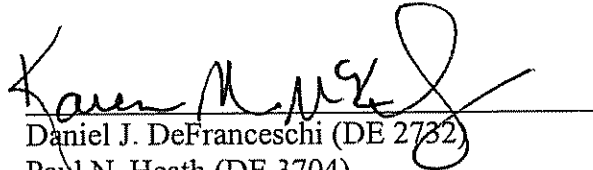
PLEASE TAKE NOTICE that the above-captioned reorganized debtors (the “Debtors”) have today filed the attached **Notice of Third Interim and Final Fee Application Request of Lazard Freres & Co. LLC for Services Rendered and Reimbursement of Expenses as Investment Banker to the Debtors for the Period February 23, 2004 Through January 31 , 2005** (the “Application”) with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Application must be in writing, filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, and served upon and received by the undersigned counsel on or before **4:00 p.m. on May 2, 2005**.

PLEASE TAKE FURTHER NOTICE that a hearing date and time to consider the Application will be determined by the Bankruptcy Court.

Dated: April 1, 2005  
Wilmington, Delaware

Respectfully submitted,



Daniel J. DeFranceschi (DE 2732)  
Paul N. Heath (DE 3704)  
Karen M. McKinley (DE 4372)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
P.O. Box 551  
Wilmington, Delaware 19899  
(302) 651-7700 (Telephone)  
(302) 658-6548 (Facsimile)

-and-

David G. Heiman (OH 0038271)  
Heather Lennox (OH 0059649)  
Carl E. Black (OH 0069479)  
JONES DAY  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
(216) 586-3939 (Telephone)  
(216) 579-0212 (Facsimile)

ATTORNEYS FOR REORGANIZED DEBTORS

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

In re:  ONCO INVESTMENT COMPANY, a Delaware corporation, <u>et al.</u> ,	: Chapter 11 : : Jointly Administered : Case No. 04-10558 (JBR) : : : Objection Deadline: TBD : Hearing Date: TBD :
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**NOTICE OF THIRD INTERIM AND FINAL FEE APPLICATION REQUEST OF  
LAZARD FRERES & CO. LLC FOR SERVICES RENDERED AND  
REIMBURSEMENT OF EXPENSES AS INVESTMENT BANKER TO THE DEBTORS  
FOR THE PERIOD FEBRUARY 23, 2004 THROUGH JANUARY 31, 2005**

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Name of Applicant:	<b>LAZARD FRÈRES &amp; CO. LLC</b>
Authorized to Provide Professional Services to:	Debtors
Date of Retention:	April 5, 2004 ( <i>nunc pro tunc</i> to February 23, 2004)
Period for which Compensation and Reimbursement is Sought (Third Interim Period):	October 1, 2004 through January 31, 2005
Amount of Compensation Requested:	<b>\$2,800,000.00</b>
Amount of Expense Reimbursement requested:	<b>\$19,252.83</b>
Period for which Compensation and Reimbursement is Sought (Final):	February 23, 2004 through January 31, 2005
Amount of Compensation Requested:	<b>\$4,248,275.00</b>
Amount of Expense Reimbursement requested:	<b>\$59,857.15<sup>a</sup></b>

This is a(n): \_\_\_\_\_ monthly \_\_\_\_\_ interim   X   final application  
Total time expended for the preparation of this application is approximately 12 hours.

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<sup>a</sup> Amount of Final Expense Reimbursement requested is inclusive of a reduction of \$3,844.02 pursuant to the Order Approving First Interim Fee Applications and exclusive of the Fee Auditor's proposed reduction of \$5,643.43 regarding the Second Interim period.

**SUMMARY OF FEE APPLICATIONS FOR COMPENSATION  
FOR THE PERIOD FEBRUARY 23, 2004 THROUGH JANUARY 31, 2005:**

Application Period	Application Dkt No.	Date Filed	Fees Requested	Fees Paid to Date	Expenses Requested	Expenses Paid to Date
02/23/04 – 04/30/04	1016	06/04/04	\$448,275.00 <sup>b</sup>	\$448,275.00	\$8,528.30 <sup>c</sup>	\$8,528.30 <sup>c</sup>
05/01/04 – 05/31/04	1330	07/12/04	200,000.00	200,000.00	7,346.96 <sup>c</sup>	7,346.96 <sup>c</sup>
06/01/04 – 06/30/04	1438	08/02/04	200,000.00	200,000.00 <sup>d</sup>	5,937.16	5,937.16
07/01/04 – 07/31/04	1565	08/30/04	200,000.00	200,000.00 <sup>d</sup>	2,974.70	2,974.70
08/01/04 – 08/31/04	1750	10/07/04	200,000.00	160,000.00	8,718.90	8,718.90
09/01/04 – 09/30/04	1851	11/01/04	200,000.00	160,000.00	7,098.30	7,098.30
10/01/04 – 10/31/04	2075	12/08/04	200,000.00	160,000.00	8,476.35	8,476.35
11/01/04 – 11/30/04	2142	01/06/05	200,000.00	160,000.00	1,422.47	1,422.47
12/01/04 – 12/31/04	2211	2/07/05	200,000.00	0.00	3,944.04	0.00
01/01/05 – 01/31/05	2305	3/10/05	200,000.00	0.00	5,409.97	0.00
<b>02/23/04 – 01/31/05</b>			<b>\$2,248,275.00</b>	<b>\$1,688,275.00</b>	<b>\$59,857.15</b>	<b>\$50,503.14</b>

**PRIOR INTERIM APPLICATIONS FILED:**

Application Period	Application Dkt No.	Date Filed	Fees Requested	Fees Paid to Date	Expenses Requested	Expenses Paid to Date
02/23/04 – 05/31/04	1338	07/14/04	648,275.00	648,275.00	15,875.26 <sup>c</sup>	15,875.26 <sup>c</sup>
06/01/04 – 09/30/04	1883	11/08/04	800,000.00	720,000.00 <sup>d</sup>	24,729.06 <sup>c</sup>	24,729.06

<sup>b</sup> Lazard revised the amount requested in this period to \$448,275.00, in its Revised First Interim Application (filed 10/15/04; Dkt. No. 1769). This amount includes a 7-day pro-rated monthly fee of \$48,275.00 for the period February 23, 2004 through February 29, 2004 ( $\$200,000.00 \times 7/29 = \$48,275.00$ ) and \$400,000.00 for the months of March and April 2004 ( $\$200,000.00 \times 2 = \$400,000.00$ ).

<sup>c</sup> These amounts reflect a reduction to expenses of \$3,844.02 (\$2,530.85 for March 2004 and \$1,313.17 for April 2004) pursuant to the Order Approving First Interim Fee Applications.

<sup>d</sup> An overpayment of \$80,000.00 related to hold-back amounts paid pursuant to the Order Approving First Interim Fee Application Requests has been applied against hold-back amounts due, pending approval of the Second Interim Fee Application Requests.

<sup>e</sup> This amounts excludes the Fee Auditor's proposed expense reduction of \$5,643.43 pending court order regarding Second Interim Fee Applications.

## LAZARD FRÈRES RESTRUCTURING GROUP CREDENTIALS

### Onco Investment Company Restructuring Team

<u>Name</u>	<u>Highest Degree, Date</u>	<u>Licenses<sup>f</sup></u>	<u>Title</u>	<u>Business Experience (Years)</u>
David Kurtz	J.D., Case Western Reserve University, 1979	Ill. Bar, Series 7, 24	Managing Director	23
Richard F. NeJame	MBA, U Penn-Wharton School, 1994 BSE, Duke University, 1989	Series 7	Director	13
Suneel Mandava	B.S. Economics, U. Penn – Wharton School, 1994	Series 7	Associate	8
Jonathan Krautmann	B.S. Cornell University, 2002	---	Financial Analyst	2
Robert Profusek	B.A., Cornell University, 2003	---	Financial Analyst	1

<sup>f</sup> The **Series 7** examination is a required exam to obtain the main NASD series license. It is a comprehensive standardized test that covers 3 broad areas of expertise in business and financial matters: Securities Markets and Customer Accounts, Product Knowledge, and Investment and Economic Analysis.

The **Series 24** examination is for licensing NYSE managers to supervise branch activities as a General Securities Principal. The test covers such topics as: Supervision of Investment Banking, Trading Market Supervision, Sales Supervision, Primary and Secondary Markets, Supervising Customer Accounts and Orders, and Investment Companies and Retirement Plans.

The **Series 63** is required for most individuals who solicit orders for any type of security in that state. The exam covers topics such as: State Registration Laws and Procedure, Lawful Practices, and a Definition of Terms.

**Compensation by Project Category<sup>8</sup>**

Code	Project Description	3rd Interim
1	Interface with Professionals, Official Committees, and Other Parties-In-Interest	66.7
2	Business Operations Planning, Monitoring, Reporting and Analysis	85.3
3	Preparation and/or Review of Court Filings	33.0
4	Court Testimony/Deposition and Preparation	47.0
5	Valuation Analysis	0.0
6	Capital Structure Review and Analysis	63.5
7	Merger & Acquisition Activity	3.0
8	Financing Including DIP and Exit Financing	92.1
9	General Corporate Finance, Research and Analysis, and Other Due Diligence	59.0
10	Fee Application, Engagement	13.5
11	Employee Retention Program	0.0
	<b>TOTAL</b>	<b>463.1</b>

Code	Project Description	Final Application
1	Interface with Professionals, Official Committees, and Other Parties-In-Interest	189.7
2	Business Operations Planning, Monitoring, Reporting and Analysis	342.8
3	Preparation and/or Review of Court Filings	91.4
4	Court Testimony/Deposition and Preparation	65.5
5	Valuation Analysis	135.3
6	Capital Structure Review and Analysis	19.5
7	Merger & Acquisition Activity	3.1
8	Financing Including DIP and Exit Financing	99.0
9	General Corporate Finance, Research and Analysis, and Other Due Diligence	191.5
10	Fee Application, Engagement	6.0
11	Employee Retention Program	17.0
	<b>TOTAL</b>	<b>1,160.8</b>

<sup>8</sup> Lazard, in its normal course of business, invoices its clients a flat monthly fee and does not charge by the hour. Thus, Lazard does not ordinarily keep time records. However, for the benefit of the Court, Lazard is recording its hourly time and providing summaries of the time spent by professionals with each Monthly Fee application

Expense Summary

<b>Item</b>	<b>Third Interim Amount Incurred</b>
Car Services and Taxis	\$3,406.76
Couriers/Shipping	79.47
Electronic Information Service	298.18
Employee Meals	471.53
Meals-Meetings/Travel	1,014.38
Photocopying Costs	854.00
Telephone/Telex/Fax-Usage	417.79
Temporary Wages - Graphics/ Word Processing	455.11
Travel	12,255.61
<b>TOTAL</b>	<b>\$19,252.83</b>

<b>Item</b>	<b>Final Amount Incurred</b>
Car Services and Taxis	\$8,921.42
Couriers/Shipping	999.11
Electronic Information Service	1,038.50
Employee Meals	2,867.46
Meals-Meetings/Travel	1,739.20
Photocopying Costs	2,609.95
Telephone/Telex/Fax-Usage	1,223.63
Temporary Wages - Graphics/ Word Processing	1,134.08
Travel	39,292.43
Miscellaneous Expenses	31.37
<b>TOTAL</b>	<b>\$59,857.15</b>

**IN THE UNITED STATES BANKRUPTCY COURT  
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**NOTICE OF THIRD INTERIM AND FINAL FEE APPLICATION REQUEST OF  
LAZARD FRERES & CO. LLC FOR SERVICES RENDERED AND  
REIMBURSEMENT OF EXPENSES AS INVESTMENT BANKER TO THE DEBTORS  
FOR THE PERIOD FEBRUARY 23, 2004 THROUGH JANUARY 31, 2005**

Pursuant to the Order Establishing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals, entered by this Court on March 22, 2004 (the "Administrative Order"), Lazard Frères & Co. LLC ("Lazard") files this Third Interim and Final Application (the "Application") for Compensation For Services Rendered and Reimbursement of Expenses for the period from February 23, 2004, through and including January 31, 2005 (the "Application Period"). By this application, Lazard seeks Final Allowance of \$4,248,275.00 as compensation and \$59,857.15 for reimbursement of actual and necessary expenses for a total of \$4,308,132.15 for investment banking services provided to Onco Investment Company, a Delaware corporation, (the "Debtors"). In support of this Application, Lazard respectfully represents as follows:

**BACKGROUND**

1. On February 23, 2004 (the "Petition Date"), the Debtors commenced their respective reorganization cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code, 11 USC §§101-1330 (the "Bankruptcy Code"). The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being administered jointly.
2. The Debtors are continuing in possession of their respective properties and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code.



3. On March 8, 2004, the Office of the United States Trustee for the District of Delaware appointed a statutory committee of unsecured creditors in these chapter 11 cases, pursuant to section 1102 of the Bankruptcy Code (the "Creditors' Committee").
4. On February 24, 2004, the Debtors filed the application to retain Lazard as their investment bankers (the "Retention Application"). On April 5, 2004, this Court entered an Order (a) Authorizing Debtors to Employ Lazard Freres & Co. LLC as Investment Bankers, *Nunc Pro Tunc* as of the Petition Date and (b) Approving Proposed Fee Structure (the "Retention Order"), to perform services as set forth in the engagement letter between the Debtors and Lazard (the "Engagement Letter") dated August 27, 2003, a copy of which is attached hereto as **Exhibit A**.
5. Prior to the commencement of this Chapter 11 case, the Debtors retained Lazard as its investment banker. The Debtors retained Lazard due to its well-established reputation and expertise in investment banking, particularly in the restructuring and bankruptcy area. Lazard's Restructuring Group consists of an experienced group of professionals dedicated to providing advisory services in the area of debt restructuring and business reorganizations. Lazard's Restructuring Group has been involved in over 200 assignments since 1990 including both out-of-court and Chapter 11 restructurings, representing over \$300 billion of indebtedness.
6. The Court approved the retention of Lazard as Debtors' investment bankers at a rate of \$200,000.00 per month (plus certain other contingent fees payable upon completion of a Restructuring or Sale Transaction) plus reimbursement of out-of pocket expenses, in the Retention Order entered April 5, 2004, a copy of which is attached hereto as **Exhibit B**. The compensation for Lazard as detailed in the Engagement Letter is summarized as follows:
  - (a) a monthly fee in the amount of \$200,000 payable on the 1<sup>st</sup> day of September 2003 and each month thereafter until the earlier of the completion of the Restructuring or the termination of Lazard's engagement.
  - (b) An additional fee equal to \$2,000,000.00 upon the consummation of a Restructuring (the "Restructuring Fee").

7. This Court confirmed the Debtor's Second Amended Joint of Reorganization Under Chapter 11 of the Bankruptcy Code (the "Plan") by Order dated November 16, 2004 (the "Confirmation Order"). The Effective Date of the Plan occurred on January 31, 2005.

### **JURISDICTION**

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

### **RELIEF REQUESTED**

9. Lazard submits this Application in accordance with procedures set forth in the Administrative Order. All services for which Lazard requests compensation were performed for, or on behalf of, the Debtors.
10. Lazard has received no payment and no promises for payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Application. Lazard has not entered into any agreement, express or implied, with any party in interest, including the Debtors, any creditors, or any representative of any of them, or with any attorney for such party in interest, for the purpose of fixing the fees or other compensation to be paid to Lazard for services rendered in connection herewith, from the assets of the Debtors. There is no agreement or understanding between Lazard and any other person, other than members, associates and employees of Lazard, for the sharing of compensation received or to be received for services rendered in connection with these proceedings.

### **REQUEST FOR ALLOWANCE OF COMPENSATION**

11. Lazard requests a final allowance of **\$4,248,275.00** for the period from February 23, 2004 through January 31, 2005, as compensation for professional services rendered during the Application Period. This amount includes (i) monthly fees in the amount of \$2,248,275.00 for the 12-month period February 23, 2004 through January 31, 2005 and (ii) a Restructuring Fee of \$2,000,000.00 pursuant to terms of the Engagement Letter.

### ACTUAL AND NECESSARY EXPENSES

12. Lazard also requests an allowance of \$59,857.15<sup>h</sup> as reimbursement for actual and necessary expenses Lazard incurred from February 23, 2004 through January 31, 2005 a summary of which is attached hereto as **Exhibit C**. With respect to expenses, it should be noted that Lazard has absorbed certain expenses customarily charged by other professionals in bankruptcy cases. For example, Lazard does not allocate office telephone charges, including long-distance charges, and thus these costs are absorbed by Lazard in its overhead and not charged to the Debtors' estate. Lazard respectfully submits that the expenses for which it seeks allowance during the Application Period are necessary and reasonable both in scope and amount.

### SERVICES PROVIDED

13. Lazard has been acting as investment banker to the Debtors while it has been in Chapter 11 bankruptcy. As investment banker, Lazard has assisted the Debtors in its restructuring and reorganization as well as offering advice to the Debtors' management in other related matters. The Managing Director, Director, Vice President, and Analysts of Lazard who have rendered professional services in these cases during the Application Period are as follows: David Kurtz, Managing Director; Richard F. NeJame, Director; Suneel Mandava, Vice President; Jonathan Krautmann and Robert Profusek, Analyst.
14. During the Application Period, the Debtors relied heavily on the experience and expertise of the above-named persons in dealing with matters relating to the Debtors' restructuring. As a result, Lazard's highly skilled restructuring professionals devoted significant time and effort to perform properly and expeditiously the required professional services.
15. The services rendered by Lazard during the Application Period, as necessary and requested, are as follows:
- a. reviewing and analyzing the Debtors' businesses, operations and financial projections;

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<sup>h</sup> Amount of actual and necessary expense requested is inclusive of a reduction of \$3,844.02 pursuant to the Order Approving First Interim Fee Applications and exclusive of the Fee Auditor's proposed reduction of \$5,643.43 regarding the Second Interim period

- b. evaluating the Debtors' potential debt capacity in light of their projected cash flows;
- c. assisting in the determination of an appropriate capital structure for the Debtors;
- d. assisting in the determination of a range of values for the Debtors' businesses on a going concern basis;
- e. advising the Debtors on tactics and strategies for negotiating with their creditors and other "Stakeholders" (as such term defined in the Engagement Letter);
- f. rendering financial advice to the Debtors and participating in meetings or negotiations with the Stakeholders and/or Rating Agencies or other appropriate parties in connection with any "Restructuring" (as such term defined in the Engagement Letter);
- g. advising the Debtors on the timing, nature, and terms of new securities, other consideration or other inducements to be offered pursuant to a Restructuring;
- h. assisting the Debtors in preparing documentation within Lazard's area of expertise in connection with a Restructuring;
- i. as requested, assisting the Debtors in identifying and evaluating candidates for a potential Additional Asset Sales or other Sales Transactions (as defined in the Engagement Letter) and advising the Debtors in connection with negotiations and aiding in the consummation Additional Asset Sales or other Sales Transactions;
- j. advising the Debtors with respect to identifying new sources of capital and structuring of such new investment, including transactions that take the form of a sale or private placement of debt or equity securities or other interests and that may constitute a Sales Transaction;
- k. advising and attending meetings of the Debtors' Board of Directors and its committees;
- l. providing testimony, as necessary, with respect to matters which Lazard has been engaged to advise the Debtors on in any proceeding before the Bankruptcy Court; and
- m. providing the Debtors with other general restructuring advice.

16. Lazard was retained on a pre-petition basis by the Debtors to assist in the evaluation of its strategic alternatives. Lazard played a critical role in the six months leading up to the

Debtor's bankruptcy filing and throughout the case in developing, structuring, and negotiating the key terms of the Debtor's plan of reorganization and financing arrangements. Below is a summary of how Lazard provided value-added services in helping the Debtors complete a successful restructuring:

- a. Advised the board with respect to evaluating strategic alternatives, including prospective divestitures of Lime and Mica businesses. Managed a competitive process to raise debtor-in-possession ("DIP") financing for the Debtor. Lazard, with the assistance of the Debtor, was able to negotiate a DIP facility with attractive financial terms and flexible covenants; Lazard worked to negotiate and document the DIP facility expeditiously to make sure that the DIP facility was available in the early days of the bankruptcy in an effort to demonstrate to suppliers and vendors that Oglebay was a viable entity with sufficient liquidity to operate its business in the normal course.
- b. Solicited a broad array of equity and debt capital providers to determine achievable debt capacity and determine third party valuation. Negotiated commitments for exit financing which were critical to expediting the reorganization process, giving all constituents a clearly defined view of the financing plans post-emergence. Negotiated debt conversion and rights offering with representatives of the adhoc committee of note holders.
- c. Assisted the Debtor in the development and preparation of its business plan and long-term financial forecast.
- d. Prepared valuation analyses and debt capacity reports that formed the basis of the structuring and negotiation of the Debtor's plan of reorganization.
- e. Analyzed the value of the Debtor's Net Operating Losses under various scenarios.
- f. Assisted the Debtor in the preparation of the disclosure statement including the preparation of valuation analyses, business plan projections and supporting assumptions, and a hypothetical liquidation analysis.
- g. Served as an expert witness in successfully defending against objections by various interested parties to plan confirmation.
- h. Provided the Debtor with valuation analyses for new securities to be issued under the plan.
- i. Assisted in the evaluation of NYSE and NASDAQ listing requirements in connection with the listing of new equity securities to be issued pursuant to the plan of reorganization.

- j. Evaluated and responded to third party expressions of interest in purchasing some or all of the Debtor's assets. Communicated expressions of interest to the Debtor's Board of Directors and Creditors' Committee.
  - k. Assisted the Debtor in the preparation and communication of information to the Debtor's creditors including materials requested through discovery motions, updates on operating results and key operational issues.
  - l. Provided advice and guidance to the Debtor with respect to its proposed exit financing.
17. The Debtors were able to meet all of its restructuring goals and Lazard played an instrumental role in guiding the Company through its restructuring process. The Debtors emerged from bankruptcy with a significantly de-leveraged balance sheet, a strong capital base, a streamlined corporate structure and improved relations with its key customers, all in under one year. By all accounts the Debtors' restructuring was an overwhelming success and Lazard played a critical role in this success
18. It is respectfully submitted that the amount requested by Lazard is fair and reasonable given (a) the complexity of the issues presented, (b) the time and labor required, (c) the skill necessary to perform the investment banking services, and (d) the preclusion of other employment.
19. WHEREFORE, Lazard respectfully requests (i) final allowance of compensation for professional services rendered during the Application Period in the amount of **\$4,248,275.00** and reimbursement for actual and necessary expenses Lazard incurred during the Application Period in the amount of **\$59,857.15** (ii) that the allowance of such expenses incurred be without prejudice to Lazard's right to seek such further compensation for the full value of services performed; and (iii) that the Court grant Lazard such other and further relief as is just.

Total Fees Requested	\$4,248,275.00
Total Out-of-Pocket Expenses Requested	<u>59,857.15</u>
Total Amount of Compensation Requested:	<b>4,308,132.15</b>
Less: Amounts Paid to Date:	<u>(3,738,778.14)</u>
Net Amount of Compensation Requested:	<u><b>\$569,354.01</b></u>

Dated: April 1, 2005  
New York, New York

LAZARD FRERES & CO. LLC

*/s/ Richard F. NeJame*

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Richard F. NeJame  
Director  
Lazard Frères & Co. LLC  
30 Rockefeller Plaza, 61st Floor  
New York, NY 10020  
(212/632-6000)  
Investment Banker for the Debtor

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

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In re:	: Chapter 11
	:
ONCO INVESTMENT COMPANY, a Delaware corporation, <u>et al.</u> ,	: <b>Jointly Administered</b>
	: <b>Case No. 04-10558 (JBR)</b>
	:
	: <b>Objection Deadline: TBD</b>
	: <b>Hearing Date: TBD</b>
	:

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RICHARD F. NEJAME, being duly sworn, deposes and says:

1. I am an employee of Lazard Frères & Co. LLC (“Lazard”), which firm maintains offices for providing investment banking services at 30 Rockefeller Plaza, New York, New York 10020. Lazard has acted as investment banker to, and rendered professional services on behalf of Onco Investment Company, a Delaware corporation, (the “Debtors”).

2. This affidavit is submitted pursuant to Bankruptcy Code Rule 2016 in connection with Lazard’s application (the “Application”) for an allowance of interim compensation for services rendered to the Debtors from February 23, 2004 through January 31, 2005 in the amount of **\$4,248,275.00** and approval of reimbursement of out-of-pocket expenses incurred in connection therewith from February 23, 2004 through January 31, 2005 in the sum of **\$59,857.15**.

3. All of the services for which compensation is sought by Lazard were performed for and on behalf of the Debtors and not on behalf of any other person.



4. No agreement or understanding exists between Lazard and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with these cases.

/s/ Richard F. NeJame

Richard F. NeJame  
Director

Sworn to before this 1<sup>st</sup> day of April 2005.

/s/ Hanna Murnane

Notary Public, State of New York  
No. 41-4729327  
Qualified in Queens County  
Commission Expires March 30, 2006

**CERTIFICATION PURSUANT TO ADMINISTRATIVE ORDER UNDER 11 U.S.C §§  
105 (a) AND 331 ESTABLISHING PROCEDURE FOR MONTHLY COMPENSATION  
AND REIMBURSEMENT OF EXPENSES FOR PROFESSIONALS**

I have read the Final Application of Lazard Frères & Co. LLC (“Lazard”) for Compensation For Services Rendered and Reimbursement of Expenses as Investment Banker to the Debtors for the Period February 23, 2004 through January 31, 2005 (the “Application Period.”)

To the best of my knowledge, information and belief, formed after reasonable inquiry, the Application complies substantially with the mandatory guidelines set forth in the Administrative Order 11 U.S.C. §§ 105 (a) and 331 Establishing Procedure For Interim Compensation and Reimbursement Of Expenses For Professionals (the “Procedures”).

To the best of my knowledge, information and belief, formed after reasonable inquiry, the fees and disbursements sought in the Application fall within the guidelines of the Procedures, except as specifically noted in this certification and in the Application.

To the best of my knowledge, information and belief, formed after reasonable inquiry, the fees and disbursements sought are billed in accordance with the practices customarily employed by Lazard and generally accepted by Lazard’s clients.

To the best of my knowledge, information and belief, formed after reasonable inquiry; in providing reimbursable services, Lazard does not make a profit on these services; in charging for a particular service, Lazard does not include in the amount for which reimbursement is sought

the amortization of the cost of any investment, equipment or capital outlay; in seeking reimbursement for services which Lazard justifiably purchased or contracted from a third party, Lazard seeks reimbursement only for the amount paid by Lazard to such vendor.

Dated: New York, New York  
April 1, 2005

*/s/ Richard F. NeJame*

Richard F. NeJame  
Director

# EXHIBIT A

## Engagement Letter

# LAZARD

LAZARD FRÈRES & Co. LLC  
200 WEST MADISON STREET  
SUITE 2200  
CHICAGO, IL 60606-3416  
PHONE 312-407-6600  
FAX 312-407-6620  
www.lazard.com

August 27, 2003

Oglebay Norton Company  
North Point Tower  
1001 Lakeside Avenue, 15<sup>th</sup> Floor  
Cleveland, OH 44114

Attention: Julie A. Boland  
Vice President and CFO

Dear Julie:

This letter agreement (the "Agreement") confirms the understanding and agreement between Lazard Frères & Co. LLC ("Lazard") and Oglebay Norton Company and its controlled subsidiaries (collectively, "Oglebay" or the "Company").

Assignment Scope:

The Company hereby retains Lazard as investment banker to provide the Company with general restructuring advice and to advise it in connection with any Restructuring and Sales Transaction (each as defined below) on the terms and conditions set forth herein. The Company has informed Lazard that it currently has approximately \$435 million of outstanding indebtedness not including certain additional claims and contingencies (collectively, the "Existing Obligations"). As used in this Agreement, the term "Restructuring" shall mean, collectively, any restructuring, reorganization (whether or not pursuant to Chapter 11 of the United States Bankruptcy Code) and/or recapitalization of all or a significant portion of the Company's Existing Obligations that is achieved, without limitation, through a solicitation of waivers and consents, rescheduling of debt maturities, repurchase, settlement or forgiveness of debt, conversion of debt into equity, an exchange offer involving new securities, issuance of new securities, sale of debt or equity securities or other interests, or other similar transaction or series of transactions. Lazard acknowledges that the Company has engaged Harris Williams and Co. and its affiliate, Cobblestone Advisors, to handle the sales of certain assets known as the Lime Assets and the Mica Assets, and to provide counsel on the sale of the Lawn & Garden Assets (collectively the "Harris Williams Asset Sales"). In addition, the Company is in the process of selling other minor assets such as the M/V Richard Reiss, redi-mix operations in our Erie Sand group and the like (collectively, the "Minor Asset Sales"). Without in any way limiting Section 2(c)(i) below, Lazard further acknowledges that the Company has not yet requested Lazard's services with respect to the sale of any assets; however, if the Restructuring Transaction includes selling assets which are not part of the Harris Williams Asset Sales or the Minor Asset Sales ("Additional Asset Sales"), Lazard agrees to be considered and the Company agrees to consider requesting Lazard to handle such sales pursuant to the terms set forth below. By signing this Agreement, we hereby accept our appointment as your investment banker under the terms hereof.

PARIS    LONDON    NEW YORK    BOMBAY    CAIRO    CHICAGO    FRANKFURT    HAMBURG    HONG KONG    MADRID  
MILAN    MONTREAL    NEW DELHI    SAN FRANCISCO    SEOUL    SINGAPORE    STOCKHOLM    SYDNEY    TOKYO    WARSAW

Description of Services:

1. Lazard agrees, in consideration of the compensation provided in Section 2 below, to perform such of the following investment banking services as the Company may reasonably request, including:

- (a) Reviewing and analyzing the Company's business, operations and financial projections;
- (b) Evaluating the Company's potential debt capacity in light of its projected cash flows;
- (c) Assisting in the determination of a capital structure for the Company;
- (d) Assist in the determination of a range of values for the Company on a going concern basis;
- (e) Advising the Company on tactics and strategies for negotiating with the holders of the Existing Obligations (the "Stakeholders");
- (f) Rendering financial advice to the Company and participating in meetings or negotiations with the Stakeholders and/or Rating Agencies or other appropriate parties in connection with any Restructuring;
- (g) Advising the Company on the timing, nature, and terms of new securities, other consideration or other inducements to be offered pursuant to the Restructuring;
- (h) Assisting the Company in preparing documentation within our area of expertise that is required in connection with the Restructuring;
- (i) As requested, assisting the Company, in identifying and evaluating candidates for potential Additional Asset Sales or other Sales Transactions and advising the Company in connection with negotiations and aiding in the consummation of Additional Asset Sales or other Sales Transactions<sup>1</sup>;
- (j) Advising the Company with respect to identifying new sources of capital and the structuring of such new investment, including transactions which take the form of a sale or private placement of debt or equity securities or other interests and which may constitute a Sales Transaction;

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<sup>1</sup> As used in this letter, the term "Sales Transaction" means any transaction or series of transactions involving (a) an acquisition, merger, consolidation, or other business combination pursuant to which the business or assets of the Company are, directly or indirectly, combined with another company; (b) the acquisition, directly or indirectly, by a buyer or buyers (which term shall include a "group" of persons as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended), of equity interests or options, or any combination thereof constituting a majority of the then outstanding stock of the Company or possessing a majority of the then outstanding voting power of the Company; (c) any other purchase or acquisition, directly or indirectly, by a buyer or buyers of assets, securities or other interests of the Company or (d) the formation of a joint venture or partnership with the Company or direct investment in the Company for the purpose of effecting a transfer of an interest in the Company to a third party.

- (k) Advising and attending meetings of the Company's Board of Directors and its committees;
- (l) Providing testimony, as necessary, with respect to matters which we have been engaged to advise you on in any proceeding before a bankruptcy court; and
- (m) Providing the Company with other general restructuring and investment banking advice.

Fees:

2. As consideration for the services to be provided, the Company shall pay Lazard certain fees and reimburse Lazard as follows:

- (a) A monthly fee of \$200,000, payable on the 1<sup>st</sup> day of September 2003 and each month thereafter until the earlier of the completion of the Restructuring or the termination of Lazard's engagement pursuant to paragraph 10.
- (b) An additional fee equal to \$2,000,000 upon the consummation of a Restructuring (the "Restructuring Fee"). In the event of a pre-packaged Chapter 11 Restructuring, such fee shall be payable upon the receipt by the Company of voting ballots or other indicia providing the requisite consents to confirm a plan of reorganization in accordance with federal bankruptcy law.
- (c)
  - (i) If, whether in connection with the consummation of a Restructuring Transaction or otherwise, the Company consummates Sales Transaction incorporating all or a majority of the assets or equity securities of the Company, Lazard shall be paid a Sales Transaction Fee equal to the greater of (A) the fee equal to the applicable percentage of Aggregate Consideration as set forth in Schedule I hereto and (B) the Restructuring Fee described in Section 2(b).
  - (ii) If the Company consummates any other Sales Transaction involving portions of the Company's assets, business or securities for which the Company has requested Lazard's services, the Company shall pay Lazard a Sales Transaction Fee for each such transaction equal to the applicable percentage of the Aggregate Consideration paid in such transaction, as set forth in Schedule I hereto. One-half of any fee paid under this Section 2(c)(ii) shall be credited against any fees subsequently or concurrently payable under Section 2(b) or Section 2(c)(i).
  - (iii) Any fee paid under this section 2(c) (a "Sales Transaction Fee") shall be payable upon consummation of the applicable Sales Transaction.
- (d) For the avoidance of any doubt, more than one fee may be payable pursuant to clauses (b) and (c)(ii) above; provided, however, in no event

will more than one fee be payable pursuant to clauses (b) and (c)(i) above. In the event of a transaction which constitutes both a Restructuring and a Sales Transaction incorporating all or a majority of the assets or equity securities of the Company, the greater of the two fees will be paid.

- (e) In addition to any fees that may be payable to Lazard and, regardless of whether any transaction occurs, the Company shall promptly reimburse Lazard for all: (i) reasonable out-of-pocket expenses (including travel and lodging, data processing and communications charges, courier services and other appropriate expenditures) and (ii) reasonable out-of-pocket fees and expenses of counsel and consultants retained with the Company's written consent (which will not be unreasonably withheld);
- (f) The Company also agrees to indemnify Lazard on a joint and several basis pursuant to the indemnification and contribution provisions set forth in the indemnification letter attached hereto (the "Indemnification Letter"), which is incorporated herein in its entirety;
- (g) All amounts payable hereunder shall be paid promptly after such amounts accrue hereunder.

Retention in Chapter 11 Proceedings:

3. In the event that any Chapter 11 proceedings involving the Company are commenced, the Company agrees that it will use best efforts to obtain prompt authorization from the Bankruptcy Court to retain Lazard on the terms and conditions set forth in this Agreement under the provisions of Section 328(a) of the Bankruptcy Code. Subject to being so retained, Lazard agrees that during the pendency of any such proceedings, it shall continue to perform its obligations under this Agreement and that it shall file interim and final applications for allowance of the fees and expenses payable to it under the terms of this Agreement pursuant to the applicable Federal Rules of Bankruptcy Procedure, and the local rules and order of the Bankruptcy Court. The order of the Bankruptcy Court approving the Agreement and authorizing Lazard's retention shall be acceptable to Lazard in its sole discretion. In so agreeing to seek Lazard's retention under Section 328(a) of the Bankruptcy Code, the Company acknowledges that it believes that Lazard's general restructuring experience and expertise, its knowledge of the capital markets and its merger and acquisition capabilities will inure to the benefit of the Company in pursuing any Restructuring or, if applicable, Sales Transaction, that the value to the Company of Lazard's services hereunder derives in substantial part from that expertise and experience and that, accordingly, the structure and amount of the contingent Restructuring Fee and, if applicable, Sales Transaction Fee are reasonable regardless of the number of hours to be expended by Lazard's professionals in the performance of the services to be provided hereunder.



Other:

4. No fee payable to any other person, by you or any other party, shall reduce or otherwise affect any fee payable hereunder to us. Lazard shall not be entitled to any fee for the completion of the Harris Williams Asset Sales or the Minor Asset Sales or, except as provided in Section 2(c)(i) above, for any other Sales Transaction for which Lazard's services were not requested.

5. The Company will use its best efforts to furnish or cause to be furnished to Lazard such current and historical financial information and other information regarding the business of the Company as Lazard may request in connection with this engagement. The Company represents and warrants to Lazard that all of the foregoing information will be accurate and complete at the time it is furnished, unless otherwise indicated, and agrees to keep Lazard advised of all material developments materially affecting the Company or its financial position. In performing its services pursuant to this Agreement, including in connection with any valuation of the Company, Lazard shall be entitled to rely upon information furnished to it by the Company or that is publicly available, may assume the accuracy and completeness of such information to the extent no caveat regarding accuracy and completeness was provided by the Company, and shall not assume any responsibility for independent verification of any such information. Lazard will not, as part of its engagement, undertake any independent valuation or appraisal of any of the assets or liabilities of the Company or of any third party, or opine or give advice to the Board of Directors, the Company or management or shareholders with respect thereto.

6. In performing its services pursuant to this Agreement, Lazard is not assuming any responsibility for the decision of the Company or any other party to pursue (or not to pursue) any business strategy or to effect (or not to effect) any Restructuring, Sales Transaction or other transaction. Lazard shall not have any obligation or responsibility to provide "crisis management" for or business consultant services to the Company, and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements; nor shall Lazard be responsible for providing any tax, legal or other specialist advice.

7. It is understood and agreed that nothing contained in this Agreement shall constitute an express or implied commitment by Lazard to underwrite, place or purchase any securities in a financing or otherwise, which commitment shall only be set forth in a separate underwriting, placement agency or purchase agreement, as applicable, relating to the financing.

8. The Indemnification Letter shall survive any termination or expiration of this Agreement.

9. In order to coordinate our efforts on behalf of the Company during the period of our engagement hereunder, in the event the Company receives an inquiry concerning any potential transaction, the Company will promptly inform Lazard of such inquiry so that we can assess such inquiry and assist in any resulting negotiations. In the event that Lazard receives an inquiry concerning any transaction, we will promptly inform the Company of such inquiry.

10. Our engagement hereunder may be terminated by you or us at any time without liability or continuing obligation to you or us, except that following such termination and any expiration of this Agreement (a) we shall remain entitled to any fees accrued pursuant to Section 2 but not yet paid prior to such termination or expiration, as the case may be, and to reimbursement of expenses incurred prior to such termination or expiration, as the case may be, and (b) in the case of termination by the Company and any expiration of this Agreement, we shall remain entitled to full payment of all fees contemplated by Section 2 hereof in respect to any Restructuring or Sales Transaction announced or resulting from negotiations commenced during the period from the date hereof until one year following such termination or expiration, as the case may be.

11. The Company recognizes that Lazard has been engaged only by the Company and that the Company's engagement of Lazard is not deemed to be on behalf of and is not intended to confer rights upon any shareholder, partner or other owner of the Company, any creditor, lender or any other person not a party hereto as against Lazard or any of its affiliates or any of their respective directors, officers, members, agents, employees or representatives. Unless otherwise expressly agreed, no one other than the Company management or the Board of Directors, is authorized to rely upon the Company's engagement of Lazard or any statements, advice, opinions or conduct by Lazard. Without limiting the foregoing, any advice, written or oral rendered to the Company's Board of Directors or management in the course of the Company's engagement of Lazard are solely for the purpose of assisting the Board of Directors or management, as the case may be, in evaluating the Restructuring or, if applicable, Sales Transaction and do not constitute a recommendation to any stakeholder of the Company that such stakeholder might or should take in connection with the Restructuring or, if applicable, Sales Transaction. Any advice, written or oral, rendered by Lazard may not be disclosed publicly or made available to third parties without the prior written consent of Lazard, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, nothing herein shall prohibit you from disclosing to any and all persons the U.S. federal income tax treatment and tax structure of any Restructuring or Sales Transaction and the portions of any materials that relate to such tax treatment or tax structure. Lazard's role herein is that of an independent contractor; nothing herein is intended to create or shall be construed as creating a fiduciary relationship between Lazard and the Company or its Board of Directors.

12. In connection with the services to be provided hereunder, Lazard may employ the services of its affiliates and may share with such affiliates any information concerning the Company and its subsidiaries, provided that Lazard and such affiliates shall hold any nonpublic information confidential in accordance with their respective customary policies relating to non-public information. Any such affiliate so employed (and its directors, officers, employees, agents, attorneys, and affiliates) shall be entitled to all of the benefits afforded to Lazard hereunder and shall be entitled to be reimbursed for its costs and expenses on the same basis as Lazard.

13. The Company's obligations hereunder shall be joint and several. The provisions hereof shall inure to the benefits of and be binding upon the successors and assigns of the Company, Lazard and any other person entitled to indemnity under the Indemnification Letter.

This Agreement may be amended, modified or supplemented only by written instrument by the parties hereto.

14. This Agreement and any claim related directly or indirectly to this Agreement (including any claim concerning advice provided pursuant to this Agreement) shall be governed by and construed in accordance with the laws of the State of New York without regard to the principle of conflicts of law. No such claim shall be commenced, prosecuted or continued in any forum other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, and each of the parties hereby submits to the jurisdiction of such courts. The Company hereby waives on behalf of itself and its successors and assigns any and all right to argue that the choice of forum provision is or has become unreasonable in any legal proceeding. Each of Lazard and the Company waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to or arising out of the engagement of Lazard pursuant to, or the performance by Lazard of the services contemplated by, this Agreement.

If the foregoing Agreement is in accordance with your understanding of the terms of our engagement, please sign and return to us the enclosed duplicate hereof.

Very truly yours,

LAZARD FRERES & CO. LLC

By: David S. Kurtz  
David S. Kurtz  
Managing Director

Accepted and Agreed to as of the date first written above.

OGLEBAY NORTON COMPANY,  
on behalf of itself and its controlled subsidiaries

By: Julie A. Boland  
Julie A. Boland  
Vice President and CFO

SCHEDULE I

Fees for Sales Transactions

FEE SCHEDULE  
(U.S. DOLLARS)

Aggregate Consideration in Excess of Sales Transaction Amount		
900	6,660	0.740
800	6,240	0.770
700	5,740	0.820
600	5,160	0.870
500	4,500	0.900
400	4,000	0.900
300	3,300	1.100
200	2,600	1.300
100	1,750	1.750

For purposes hereof, the term "Aggregate Consideration" means (x) the total amount of cash and the fair market value (on the date of payment) of all of the property paid or payable (including amounts paid into escrow) in connection with the Sales Transaction (or any related transaction), including amounts paid or payable in respect of convertible securities, preferred equity securities, warrants, stock appreciation rights, option or similar rights, whether or not vested, plus (y) the principal amount of all indebtedness for borrowed money or other liabilities of the Company or any relevant subsidiary, as the case may be, as set forth on the most recent balance sheet, or, in case of the sale of assets, all indebtedness for borrowed money or other liabilities assumed by the third party. Aggregate Consideration shall also include the aggregate amount of any dividends or other distributions declared by the Company and any relevant subsidiary after the date hereof other than normal quarterly cash dividends, and, in the case of the sale of assets, the net value of any current assets not sold by the Company and any relevant subsidiary. For purposes of calculating Aggregate Consideration, (i) all shares will be deemed transferred where a Sales Transaction is effected by the transfer of shares, (a) constituting more than 30% of the then outstanding equity securities of or

<sup>2</sup> For a transaction size in between the aggregate considerations specified above, the fee would be determined by interpolating between the two closest percentages.

equity interest in the Company, or (b) possessing more than 30% of the then outstanding voting power of the outstanding equity securities of or equity interest in the Company, and (ii) the value of securities (whether debt or equity) that are freely tradable in an established public market will be determined on the basis of the average closing price in such market for the 10 trading days prior to the closing of the Sales Transaction (the "Valuation Date"); and the value of securities that have no established public market or other property will be the fair market value of such securities or other property on such Valuation Date and any restricted stock (i.e., stock in a public company not freely tradeable) received shall be valued at 85% of the public market price of such stock. Aggregate Consideration shall also be deemed to include pension liabilities and guarantees of monies borrowed assumed directly or indirectly by the third party. If the Aggregate Consideration is subject to increase by contingent payments related to future events, the portion of our fee relating thereto shall be calculated by us in good faith and paid to us upon consummation of the Sales Transaction.

# LAZARD

LAZARD FRÈRES & Co. LLC  
200 WEST MADISON STREET  
SUITE 2200  
CHICAGO, IL 60606-3416  
PHONE 312 - 407 - 6600  
FAX 312 - 407 - 6620  
www.lazard.com

August 27, 2003

Oglebay Norton Company  
North Point Tower  
1001 Lakeside Avenue, 15<sup>th</sup> Floor  
Cleveland, OH 44114

Dear Ladies and Gentlemen:

In connection with our engagement to advise you and assist you with the matters set forth in the engagement letter of even date herewith, you and we are entering into this letter agreement. It is understood and agreed that in the event that Lazard Frères & Co. LLC or any of our members, employees, agents, affiliates or controlling persons, if any (each of the foregoing, including Lazard Frères & Co. LLC, being an "Indemnified Person") become involved in any capacity in any action, claim, proceeding or investigation brought or threatened by or against any person, including your stockholders, related to, arising out of or in connection with our engagement, you will promptly reimburse each such Indemnified Person for its legal and other expenses (including the cost of any investigation and preparation) as and when they are incurred in connection therewith. You will indemnify and hold harmless each Indemnified Person from and against any losses, claims, damages, liabilities or expense to which any Indemnified Person may become subject under any applicable federal or state law, or otherwise, related to, arising out of or in connection with our engagement, whether or not any pending or threatened action, claim, proceeding or investigation giving rise to such losses, claims, damages, liabilities or expense is initiated or brought by or on your behalf and whether or not in connection with any action, proceeding or investigation in which you or such Indemnified Persons are a party, except to the extent that any such loss, claim, damage, liability or expense is found by a court of competent jurisdiction in a judgment which has become final in that it is no longer subject to appeal or review to have resulted primarily from such Indemnified Person's willful misconduct, bad faith or gross negligence. You also agree that no Indemnified Person shall have any liability (whether direct or indirect, in contract or tort or otherwise) to you or your security holders or creditors related to, arising out of or in connection with our engagement except to the extent that any loss, claim, damage or liability is found by a court of competent jurisdiction in a judgment which has become final in that it is no longer subject to appeal or review to have resulted primarily from such Indemnified Person's bad faith or gross negligence. If multiple claims are brought against us in an arbitration related to, arising out of or in connection with our engagement, with respect to at least one of which such claims indemnification is permitted under applicable law, you agree that any arbitration award shall be conclusively deemed to be based on claims as to which indemnification is permitted and provided for hereunder, except to the extent the arbitration award expressly states that the award, or any portion thereof, is based solely on a claim as to which indemnification is not available.

PARIS    LONDON    NEW YORK    BOMBAY    CAIRO    CHICAGO    FRANKFURT    HAMBURG    HONG KONG    MADRID  
MILAN    MONTREAL    NEW DELHI    SAN FRANCISCO    SEOUL    SINGAPORE    STOCKHOLM    SYDNEY    TOKYO    WARSAW

If for any reason the foregoing indemnification is held unenforceable (other than due to a failure to meet the standard of care set forth above), then you shall contribute to the loss, claim, damage, liability or expense for which such indemnification is held unenforceable in such proportion as is appropriate to reflect the relative benefits received, or sought to be received, by you and your security holders and creditors on the one hand and the party entitled to contribution on the other hand in the matters contemplated by our engagement as well as the relative fault of yourselves and such party with respect to such loss, claim, damage, liability or expense and any other relevant equitable considerations. You agree that for the purposes hereof the relative benefits received, or sought to be received, by you and your security holders and creditors and ourselves shall be deemed to be in the same proportion as (i) the total value paid or proposed to be paid or received by you and your security holders and creditors, as the case may be, pursuant to the transaction (whether or not consummated) for which we have been engaged to perform investment banking services bears to (ii) the fees paid or proposed to be paid to us in connection with such engagement; provided, however, that, to the extent permitted by applicable law, in no event shall we or any other Indemnified Person be required to contribute an aggregate amount in excess of the aggregate fees actually paid to us for such investment banking services. Your reimbursement, indemnity and contribution obligations under this letter shall be joint and several and shall be in addition to any liability which you may otherwise have, shall not be limited by any rights we or any other Indemnified Person may otherwise have and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of yourselves, ourselves, and any other Indemnified Persons.

You agree that, without our prior written consent (which will not be unreasonably withheld), you will not settle, compromise or consent to the entry of any judgment in any pending or threatened claim, action, or proceeding or investigation in respect of which indemnification or contribution could be sought hereunder (whether or not we or any other Indemnified Persons are an actual or potential party to such claim, action or proceeding or investigation), unless such settlement, compromise or consent includes an unconditional release of each Indemnified Person from all liability arising out of such claim, action or proceeding or investigation. No waiver, amendment or other modification of this agreement shall be effective unless in writing and signed by each party to be bound thereby. This agreement and any claim related directly or indirectly to this agreement (including any claim concerning advice provided pursuant to this agreement) shall be governed and construed in accordance with the laws of the State of New York (without giving regard to the conflicts of law provisions thereof). No such claim shall be commenced, prosecuted or continued in any forum other than the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York, and each of us hereby submits to the jurisdiction of such courts. You hereby waive on behalf of yourself and your successors and assigns any and all right to argue that the choice of forum provision is or has become unreasonable in any legal proceeding. We and you (on your own behalf and, to the extent permitted by applicable law, on behalf of your stockholders and creditors) waive all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to or arising out of or in connection with our engagement.

This agreement shall remain in effect indefinitely, notwithstanding any termination or expiration of our engagement.

Very truly yours,

LAZARD FRERES & CO. LLC

By: David S. Kurtz

David S. Kurtz  
Managing Director

Accepted and Agreed to as of the date first written above.

OGLEBAY NORTON COMPANY,  
on behalf of itself and its controlled subsidiaries

By: Julie A. Boland

Julie A. Boland  
Vice President and CFO



# EXHIBIT B

## Retention Order

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re: :  
: Chapter 11  
ONCO INVESTMENT COMPANY, :  
: Jointly Administered  
a Delaware corporation, et al., :  
: Case No. 04-10558 (JBR)  
Debtors. :  
RE: Docket No. 51

**ORDER (A) AUTHORIZING DEBTORS AND  
DEBTORS IN POSSESSION TO RETAIN AND  
EMPLOY LAZARD FRÈRES & CO. LLC AS INVESTMENT  
BANKERS, *NUNC PRO TUNC* AS OF THE PETITION  
DATE AND (B) APPROVING PROPOSED FEE STRUCTURE**

This matter coming before the Court on the Application of Debtors and Debtors in Possession for (A) Authority to Retain and Employ Lazard Frères & Co LLC as Investment Bankers, *Nunc Pro Tunc* as of the Petition Date and (B) Approving Proposed Fee Structure (the "Application")<sup>1</sup> filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); the Court (a) having reviewed (i) the Application; (ii) the Affidavit of David S Kurtz, a Managing Director of Lazard Frères & Co. LLC ("Lazard"), attached to the Application as Exhibit A (the "Affidavit"); (iii) the engagement letter between the Debtors and Lazard, dated August 27, 2003 (the "Engagement Letter"), attached to the Application as Exhibit B; and (iv) the related indemnification letter of the same date (the "Indemnification Letter"), attached to the Application as Exhibit C and (b) having heard the statements of counsel regarding the relief requested in the Application at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Application and the Affidavit and at the Hearing establish just cause for the relief granted herein;

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Application.

THE COURT HEREBY FINDS THAT:

A The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

B This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)

C Notice of the Application and the Hearing was sufficient under the circumstances

D The Application and the Affidavit are in full compliance with all applicable provisions of the Bankruptcy Code, 11 U.S.C. § 101-1330 (the "Bankruptcy Code"); the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

E Lazard is a "disinterested person" as that term is defined in section 101(14), of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code;

F Lazard performed certain investment banking services pursuant to the Engagement Letter for the Debtors prior to the commencement of the cases

G. The Debtors' retention and employment on the terms set forth in the Engagement Letter and Addendum A attached thereto (the "Indemnification Letter"), as modified herein, <sup>are</sup> necessary and in the best interests of the Debtors' estates, creditors, and other parties-in-interest;

H. The terms of the Engagement Letter and the Indemnification Letter, as modified herein, are reasonable terms of employment for purposes of section 328(a) of the Bankruptcy Code;

1 The Debtors owe no amount to Lazard for prepetition fees and expenses

IT IS HEREBY ORDERED THAT:

1 The Application is GRANTED as modified herein.

2 Pursuant to sections 327(n) and 328(a) of the Bankruptcy Code and Bankruptcy Rules 2014(n) and 2016 the Debtors are hereby authorized to employ and retain Lazard as their financial advisors and investment bankers ~~going forward~~ to the commencement of these cases, on the terms set forth in the Application and this Order, and to the extent consistent with the Application and this Order, the Engagement Letter; provided, however, that Lazard shall not provide any services to the Debtors relating to a Sales Transaction, unless such services are approved by the Court in advance of Lazard providing such services.

3 Lazard shall be compensated in accordance with the terms of the Engagement Letter, subject to the procedures set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, and any other applicable orders of this Court; provided, however, that Lazard shall not be entitled to a Sales Transaction Fee in connection with a Sales Transaction unless Lazard's services in connection with such Sales Transaction are approved by the Court in accordance with paragraph 2 above.

4. The indemnification provisions set forth in the Indemnification Letter are approved, subject during the pendency of the Debtors' bankruptcy cases to the following:

(a) subject to the provisions of subparagraph (e), infra, the Debtors are authorized to indemnify, and shall indemnify, Lazard, in accordance with the Engagement Letter and Indemnification Letter, for any claim

arising from, related to, or in connection with Lazard's prepetition performance of the services described in the Engagement Letter;

(b) subject to the provisions of subparagraph (e), infra, the Debtors are authorized to indemnify, and shall indemnify, Lazard in accordance with the Indemnification Letter for any claim arising from, related to or in connection with the services provided for in the Engagement Letter (the "Services"), but not for any claim arising from, related to, or in connection with Lazard's postpetition performance of any other services unless such postpetition services and indemnification therefore are approved by the Court;

(c) notwithstanding any provisions of the Engagement Letter or Indemnification Letter to the contrary, the Debtors shall have no obligation to indemnify Lazard or provide contribution or reimbursement to Lazard for any claim or expense that is either (i) judicially determined (the determination having become final) to have arisen from Lazard's bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct, or (ii) settled prior to a judicial determination as to Lazard's gross negligence or willful misconduct, but determined by the Court, after notice and a hearing pursuant to subparagraph (e), infra, to be a claim or expense for which Lazard should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter or Indemnification Letter, as modified by this Order;

(d) if during the Debtors' cases the indemnification is held unenforceable (other than by reason of bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct of Lazard) and Lazard makes a claim for the payment of any amounts by the Debtors on account of the Debtors' contribution obligations, then the proviso set forth in the second sentence of the contribution provisions set forth in the Indemnification Letter shall not be applicable;

(e) if, before the earlier of (i) the entry of an order confirming a Chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these Chapter 11 cases, Lazard believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Letter or Indemnification Letter (as modified by this Order), including without limitation the advancement of defense costs, Lazard must file an application therefor in this Court, and the Debtors may not pay any such amounts to Lazard before the entry of an order by this Court approving the payment. This subparagraph (e) is intended only to specify the period of time during which the Court shall have jurisdiction over any request for compensation and expenses by Lazard for indemnification, contribution or reimbursement and not a provision limiting the duration of the Debtors' obligation to indemnify Lazard.

5 Lazard shall file interim and final fee applications for allowance of its compensation and expenses with respect to its services with the Court in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and orders of the Court; provided, however, that Lazard may submit time records in a summary format which shall set forth a description of the services rendered by each Restructuring professional and the amount of time spent on each date by each such individual in rendering services on behalf of the Debtors and, therefore, the information requirements of Local Rule 2016-2 are hereby modified and waived, to the extent necessary, with respect to Lazard. The Debtors are authorized to pay Lazard's monthly fees and to reimburse Lazard for its costs and expenses as provided in the Engagement Letter, upon approval by the Court of interim and final applications. All fees and reimbursements paid or payable to Lazard in accordance with the Engagement Letter and this Order shall be subject to this Court's approval.

6 Notwithstanding anything to the contrary in the Application or the Engagement Letter, (a) references in paragraphs 2(c)(i) and 2(d) of the Engagement Letter to "Sales Transaction incorporating all or a majority of the assets or equity securities of the Company" are hereby modified as follows: "Sales Transaction incorporating all or substantially all of the assets or equity securities of the Company;" (b) no Restructuring Fee shall be paid to Lazard to the extent that the Restructuring giving rise to such fee occurs after the Debtors' chapter 11 cases are converted to cases under chapter 7 of the Bankruptcy Code; (c) a Sales Transaction Fee shall only be paid to Lazard to the extent that the agreement to enter into the Sales Transaction giving rise to such fee is executed prior to any conversion of the Debtors' chapter 11 cases to cases under chapter 7 of the Bankruptcy Code; (d) no material modifications shall be made to

the terms and conditions of the Engagement Letter absent Court approval; and (c) no affiliates of Lazard will provide services to the Debtors

7 All of Lazard's fees and expenses in these cases, including without limitation the Restructuring Fee, Sales Transaction or Monthly Fees (as such terms are defined in the Engagement Letter) are approved pursuant to section 328(a) of the Bankruptcy Code; provided, however, that all such fees and expenses shall be subject to approval by the Court under the standard set forth in Section 330 of the Bankruptcy Code upon proper application by Lazard in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable orders of this Court; provided further, however, that the approval of the reasonableness of Lazard's fees and expenses shall not be evaluated solely on an hourly based criteria

8 Notwithstanding anything to the contrary in the Application and the Engagement Letter, if Lazard requires professional assistance in the exercise of its engagement, and to the extent Lazard wishes to be reimbursed for the work of such professionals or that such professionals be directly compensated by the Debtors, Lazard shall file, or cause to be filed, an appropriate application with the Court, in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, seeking the approval of the engagement of such professionals, including attorneys, whom Lazard wishes to engage. The fees and expenses of such professionals shall be subject to Court review and approval in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the fee and expense guidelines established by the U.S. Trustee and any other applicable requirements

9 Notwithstanding anything to the contrary in the Application or the Engagement Letter, during the pendency of these chapter 11 proceedings, this Court shall

retain exclusive jurisdiction to construe and enforce the terms of the Application, the Engagement Letter, the Indemnification Letter and this Order.

Dated: 4/5, 2004

  
UNITED STATES BANKRUPTCY JUDGE



# EXHIBIT C

## Summary of Expenses

**Onco Investment Company  
Third Interim and Final Application  
Lazard Frères & Co. LLC**

**February 23, 2004 - January 31, 2005**

**Fee Calculation - Third Interim Application**

<u>Item</u>	<u>Amount Incurred</u>
Monthly Fees: October 1, 2004 - October 31, 2004	\$200,000.00
Monthly Fees: November 1, 2004 - November 30, 2004	200,000.00
Monthly Fees: December 1, 2004 - December 31, 2004	200,000.00
Monthly Fees: January 1, 2005 - January 31, 2005	200,000.00
Restructuring Fee	2,000,000.00
<b>TOTAL</b>	<b><u><u>\$2,800,000.00</u></u></b>

**Fee Calculation - Final Application**

<u>Item</u>	<u>Amount Incurred</u>
Monthly Fees: February 23, 2004 - January 31, 2005	\$2,248,275.00
Restructuring Fee	2,000,000.00
<b>TOTAL</b>	<b><u><u>\$4,248,275.00</u></u></b>

**Summary of Out-of-Pocket Expenses - Third Interim Application<sup>(1)</sup>**

<u>Item</u>	<u>Amount Incurred</u>
Car Services and Taxis	\$3,406.76
Couriers/Shipping	79.47
Electronic Information Service	298.18
Employee Meals	471.53
Meals-Meetings/Travel	1,014.38
Photocopying Costs	854.00
Telephone/Telex/Fax-Usage	417.79
Temporary Wages - Graphics/ Word Processing	455.11
Travel	12,255.61
<b>TOTAL</b>	<b><u><u>\$19,252.83</u></u></b>

**Summary of Out-of-Pocket Expenses - Final Application<sup>(1)</sup>**

<u>Item</u>	<u>Amount Incurred</u>
Car Services and Taxis	\$8,921.42
Couriers/Shipping	999.11
Electronic Information Service	1,038.50
Employee Meals	2,867.46
Meals-Meetings/Travel	1,739.20
Photocopying Costs	2,609.95
Telephone/Telex/Fax-Usage	1,223.63
Temporary Wages - Graphics/ Word Processing	1,134.08
Travel	39,292.43
Miscellaneous Expenses	31.37
<b>TOTAL</b>	<b><u><u>\$59,857.15</u></u></b>

<sup>(1)</sup> Additional expense detail will be furnished upon request