

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
: :  
REFCO INC., et al., : Case No. 05-60006 (RDD)  
: :  
Debtors. : (Jointly Administered)  
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**FOURTH AND FINAL APPLICATION OF MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY  
LLP, COUNSEL TO OFFICIAL COMMITTEE OF UNSECURED CREDITORS, FOR  
INTERIM APPROVAL AND ALLOWANCE OF COMPENSATION FOR SERVICES  
RENDERED AND FOR REIMBURSEMENT OF EXPENSES DURING PERIOD FROM  
OCTOBER 28, 2005 THROUGH AND INCLUDING DECEMBER 26, 2006**

Name of Applicant: Milbank, Tweed, Hadley & M<sup>C</sup>Cloy LLP

Authorized to Provide  
Professional Services to: Official Committee of Unsecured  
Creditors

Date of Retention: November 21, 2005 (effective as of  
October 28, 2005)

Period for which compensation  
and reimbursement is sought: October 28, 2005 - December 26, 2006

Amount of Compensation  
requested: \$17,411,950.00

Amount of Expense  
Reimbursement requested: \$1,531,672.55

This is an: \_\_\_\_\_ interim X final application.

This is the fourth and final application filed by Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP in these cases.

Prior Applications:

Period Covered	Requested		Awarded	
	Fees	Expenses	Fees	Expenses
October 28, 2005 - January 31, 2006	5,437,892.50	329,394.64	5,437,892.50	329,394.64
February 1, 2006 - May 31, 2006	6,445,254.50	683,495.29	6,445,254.50	683,495.29
June 1, 2006 - September 30, 2006	3,470,235.50	358,517.39	3,470,235.50	358,517.39

**FOURTH AND FINAL FEE APPLICATION OF MILBANK, TWEED,  
HADLEY & McCLOY LLP: AS GENERAL BANKRUPTCY COUNSEL OF THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF REFCO INC.  
(OCTOBER 28, 2005 - DECEMBER 26, 2006)**

<b>Name</b>	<b>Position; Experience</b>	<b>Hourly Rate</b>	<b>Total Hours</b>	<b>Total Compensation</b>
Luc Despins	Financial Restructuring Partner for 12 years; admitted in 1986.	\$850	1,410.90	\$1,199,265.00
		\$805	672.60	\$541,443.00
Scott Edelman	Litigation Partner for 11 years; admitted in 1989.	\$850	313.90	\$266,815.00
		\$790	82.80	\$65,412.00
David Gelfand	Litigation Partner for 10 years; admitted in 1988.	\$825	36.70	\$30,277.50
		\$750	1.00	\$750.00
Warren Cooke	Global Finance Partner for 26 years; admitted in 1973.	\$825	5.30	\$4,372.50
Dale Ponikvar	Tax Partner for 17 years; admitted in 1981.	\$825	.40	\$330.00
		\$770	8.70	\$6,699.00
		\$725	23.50	\$17,037.50
Richard Wight	Global Finance Partner for 23 years; admitted in 1976.	\$825	31.80	\$26,235.00
William Wallace	Litigation Partner for 19 years; admitted in 1979.	\$825	29.50	\$24,337.50
Thomas Janson	Global Corporate Partner for 16 years; admitted in 1982.	\$825	99.80	\$82,335.00
		\$750	295.90	\$221,925.00
Andrew Tomback	Litigation Partner for 9 years; admitted in 1987.	\$780	190.80	\$148,824.00
John O'Connor	Global Corporate Partner for 8 years; admitted in 1987.	\$770	11.90	\$9,163.00
David Perkins	Litigation Partner for 29 years; admitted 1969.	\$770	8.30	\$6,391.00
Helfried Schwarz	Global Transportation Finance Partner for 7 years; admitted in 1989.	\$770	5.70	\$4,389.00

Winthrop Brown	Global Finance Partner for 23 years; admitted in 1975.	\$770	3.20	\$2,464.00
		\$760	3.40	\$2,584.00
		\$720	77.20	\$55,584.00
Wilbur Foster	Financial Restructuring Partner for 16 years; admitted in 1982.	\$760	171.10	\$130,036.00
		\$740	148.50	\$109,890.00
		\$710	144.60	\$102,666.00
Douglas Henkin	Litigation Partner for 6 years; admitted in 1993.	\$760	164.60	\$125,096.00
		\$740	289.30	\$214,082.00
		\$700	53.20	\$37,240.00
Gary Wigmore	Global Project Finance Partner for 16 years; admitted in 1982.	\$750	4.30	\$3,225.00
Susheel Kirpalani	Financial Restructuring Partner for 5 years; admitted in 1994.	\$750	1,879.20	\$1,409,400.00
		\$740	84.10	\$62,234.00
		\$675	46.10	\$31,117.50
Joy Gallup	Global Securities Partner for 8 years; admitted in 1991.	\$750	15.40	\$11,550.00
Robert Finkel	Global Corporate Finance Partner for 6 years; admitted in 1988.	\$740	13.00	\$9,620.00
		\$700	21.10	\$14,770.00
Crayton Bell	Global Corporate Finance Partner for 5 years; admitted in 1992.	\$705	50.90	\$35,884.50
		\$675	130.60	\$88,155.00
Matthew Barr	Financial Restructuring Partner for 2 years; admitted in 1997.	\$675	172.70	\$116,572.50
		650	102.50	\$66,625.00
		\$550	237.80	\$130,790.00
Michael Murray	Litigation Partner for 10 years; admitted in 1988.	\$675	30.50	\$20,587.50
David Wolfson	Global Corporate Partner for 4 years; admitted in 1994.	\$625	224.10	\$140,062.50
Andrew LeBlanc	Litigation Partner for 4 months; admitted in 1998.	\$600	280.00	\$168,000.00
		\$525	1,641.30	\$861,682.50
		\$495	429.90	\$212,800.50
John Griem	Litigation Partner for 3 years; admitted 1995.	\$550	10.90	\$5,995.00

James Cavoli	Litigation Of Counsel for 1 year; admitted in 1993.	\$650	13.00	\$8,450.00
Robert Winter	Financial Restructuring Associate for 10 years; admitted in 1997.	\$565 \$555 \$525	25.20 27.10 22.30	\$14,238.00 \$15,040.50 \$11,707.50
David Sieradzki	Litigation Associate for 12 years; admitted in 1993.	\$565 \$555 \$525	1.30 22.70 6.80	\$734.50 \$12,598.50 \$3,570.00
Dennis O'Donnell	Financial Restructuring Associate for 13 years; admitted in 1992.	\$535 \$525 \$495	3,308.00 539.30 769.70	\$1,769,780.00 \$283,132.50 \$381,001.50
Geoffrey Secol	Global Corporate Associate for 6 years; admitted in 1999.	\$535 \$525 \$495	86.00 31.40 46.90	\$46,010.00 \$16,485.00 \$23,215.50
Russell Kestenbaum	Tax Associate for 8 years; admitted in 1997.	\$525 \$495	44.00 28.80	\$23,100.00 \$14,256.00
Jessica Fink	Financial Restructuring Associate for 7 years; admitted in 2001.	\$525	511.80	\$268,695.00
James Tecce	Financial Restructuring Associate for 10 years; admitted in 1995.	\$525	42.80	\$22,470.00
Lesley Benn	Litigation Associate for 9 years; admitted in 1997.	\$525	69.70	\$36,592.50
Donna Mitchell	Global corporate Associate for 7 years; admitted in 1998.	\$525 \$495	17.00 50.70	\$8,925.00 \$25,096.50
Janet Hensch	Litigation Associate for 6 years; admitted in 1999.	\$525	81.00	\$42,525.00
Jeffrey Nagel	Litigation Associate for 10 years; admitted in 1995.	\$525	96.90	\$50,872.50

Peter Memminger	Global Corporate Associate for 6 years; admitted in 2002.	\$515	8.50	\$4,377.50
James MacInnis	Financial Restructuring Associate for 6 years; admitted in 2001.	\$515 \$510 \$475	240.50 77.50 199.40	\$123,857.50 \$39,525.00 \$94,715.00
David Schwartz	Global Corporate Associate for 6 years; admitted in 2001.	\$515	20.40	\$10,506.00
Kylie Davidson	Litigation Associate for 6 years; admitted in 2001.	\$515 \$510 \$475	909.90 304.40 44.60	\$468,598.50 \$155,244.00 \$21,185.00
Jeffrey Milton	Financial Restructuring Associate for 5 years; admitted in 1999.	\$515 \$510 \$475	126.90 82.20 344.60	\$65,353.50 \$41,922.00 \$163,685.00
Jessica Albrecht	Global Finance Associate for 6 years; admitted in 2002.	\$510 \$475	13.70 5.50	\$6,987.00 \$2,612.50
Melissa Curtin	Global Corporate Associate for 5 years; admitted in 2002.	\$500 \$495 \$440	.60 5.60 249.80	\$300.00 \$2,772.00 \$109,912.00
Manuel Yanez	Litigation Associate for 5 years; admitted in 2002.	\$500 \$495	95.60 119.20	\$47,800.00 \$59,004.00
Janet Parkhurst	Global Corporate Associate for 9 years; admitted in 1997.	\$495	3.00	\$1,485.00
Naomi Beard	Global Finance Associate for 5 years; admitted in 1997.	\$495	24.90	\$12,325.50
Frank Bruno	Litigation Associate for 5 years; admitted in 2000.	\$485	37.50	\$18,187.50
Deborah Elman	Litigation Associate for 4 years; admitted in 2001.	\$475	289.70	\$137,607.50

Craig Gherman	Global Corporate Associate for 6 years; admitted in 2001.	\$475	114.40	\$54,340.00
Samina Uddin	Financial Restructuring Associate for 4 years; admitted in 2003.	\$475 \$470 \$400	518.70 333.40 369.10	\$246,382.50 \$156,698.00 \$147,640.00
Atara Miller	Litigation Associate for 4 years; admitted in 2003.	\$475 \$400	4.00 9.00	\$1,900.00 \$3,600.00
Aaron Renenger	Litigation Associate for 4 years; admitted in 2002.	\$475 \$400	22.90 84.20	\$10,877.50 \$33,680.00
Diana Paraguacuto-Maheo	Litigation Associate for 4 years; admitted in 2003.	\$470	8.30	\$3,901.00
Ulrike Till	Litigation Associate for 3 years; admitted in 2004.	\$440	3.50	\$1,540.00
Guy Padula	Litigation Associate for 3 years; admitted in 2004.	\$440 \$435 \$375	70.10 288.50 6.60	\$30,844.00 \$125,497.50 \$2,475.00
James Tumbridge	Litigation Associate for 3 years; admitted in 2004.	\$440	6.50	\$2,860.00
Edward Baldwin	Litigation Associate for 3 years; admitted in 2004.	\$440	9.50	\$4,180.00
Ben Clossik Thomson	Litigation Associate for 3 years; admitted in 2004.	\$440	11.70	\$5,148.00
Jacqueline Chan	Global Securities Associate for 4 years; admitted in 1999.	\$440	6.00	\$2,640.00
Ryan Katz	Global Corporate Associate for 5 years; admitted in 2002.	\$440	32.10	\$14,124.00
Jonathan Poling	Litigation Associate for 4 years; admitted in 2003.	\$440	8.10	\$3,564.00

Irene Bogdashevsky	Financial	\$440	285.10	\$125,444.00
	Restructuring	\$435	73.50	\$31,972.50
	Associate for 3 years; admitted in 2004.	\$375	22.60	\$8,475.00
James Bulger	Financial	\$440	310.40	\$136,576.00
	Restructuring	\$435	84.40	\$36,714.00
	Associate for 3 years; admitted in 2004.	\$375	112.50	\$42,187.50
Samuel Khalil	Financial	\$440	3.10	\$1,364.00
	Restructuring	\$375	29.10	\$10,912.50
	Associate for 3 years; admitted in 2004.			
Brian Kinney	Financial	\$440	265.90	\$116,996.00
	Restructuring	\$435	217.70	\$94,699.50
	Associate for 3 years; admitted in 2004.	\$375	384.70	\$144,262.50
Soham Naik	Financial	\$440	8.80	\$3,872.00
	Restructuring			
	Associate for 3 years; admitted in 2004.			
Holly Yoshinari	Litigation Associate for 2 years; admitted in 2004.	\$440	38.40	\$16,896.00
		\$435	165.30	\$71,905.50
Megan Moore	Global Corporate Associate for 3 years; admitted in 2003.	\$435	25.50	\$11,092.50
Pepin Tuma	Litigation Associate for 3 years; admitted in 2004.	\$410	73.00	\$29,930.00
Daniel De Souza	Litigation Associate for 2 years; admitted in 2005.	\$410	299.50	\$122,795.00
		\$400	257.50	\$103,000.00
		\$325	44.00	\$14,300.00
Marianne Regina Dobelbower	Litigation Associate for 2 years; admitted in 2005.	\$410	274.90	\$112,709.00
		\$400	157.00	\$62,800.00
		\$325	37.00	\$12,025.00
Naomi Slavinski	Global Corporate Associate for 2 years; admitted in 2005.	\$410	10.40	\$4,264.00



Melanie Westover	Litigation Associate for 2 years; admitted in 2005.	\$410 \$400 \$325	586.90 239.00 223.20	\$240,629.00 \$95,600.00 \$72,540.00
Grace Gilligan	Litigation Associate for 2 years; admitted in 2005.	\$410	11.60	\$4,756.00
Brian Garzione	Global Corporate Associate for 2 years; admitted in 2005.	\$410 \$325	134.70 134.70	\$55,227.00 \$43,777.50
Kevin Ashby	Litigation Associate for 3 years; admitted in 2004.	\$375	52.40	\$19,650.00
Emily Kunz	Litigation Associate for 3 years; admitted in 2004.	\$375	15.40	\$5,775.00
Caroline Wainright	Tax Associate for 3 years; admitted in 2004.	\$375	5.40	\$2,025.00
Holly Yoshinari	Litigation Associate for 3 years; admitted in 2004.	\$375	158.60	\$59,475.00
Patrick Marecki	Litigation Associate for 1 year; admitted in 2006.	\$350	231.80	\$81,130.00
Allison Fulton	Litigation Associate for 1 year; admitted in 2006.	\$350	165.50	\$57,925.00
Kataryna Lyson	Litigation Associate for 1 year; admitted in 2006.	\$350	7.20	\$2,520.00
Seunghyun Surh	Global Finance Associate for 1 year; admitted in 2006.	\$350	2.70	\$945.00
Joshua Pater	Litigation Associate for 1 year; admitted in 2006.	\$350	1,738.60	\$608,510.00
Linda Park	Global Finance Associate for 1 year; admitted in 2006.	\$350	19.60	\$6,860.00
Rachel Penski	Litigation Associate for 1 year; admitted in 2006.	\$350	13.70	\$4,795.00
Rachel Cherington	Tax Associate for 1 year; admitted in 2006.	\$350	14.80	\$5,180.00

Michal Dahan	Litigation Associate for 1 year; admitted in 2006.	\$350	1,549.60	\$542,360.00
Eric Fishman	Litigation Associate for 1 year; admitted in 2006.	\$350 \$225	789.50 22.70	\$276,325.00 \$5,107.50
Michael Kurzer	Litigation Associate for 2 years; admitted in 2005.	\$325	10.90	\$3,542.50
Catherine Yu	Financial Restructuring Associate for 9 months; admitted in 2007.	\$225	302.00	\$67,950.00
Melissa Klein	Financial Restructuring Associate for 4 months; admission pending.	\$225	18.80	\$4,230.00
Eva Swayzee	Global Corporate Associate for 1 year; admitted in 2006.	\$225	40.20	\$9,045.00
Gregory Rutstein	Global Corporate Associate for 1 year; admitted in 2006.	\$225	83.30	\$18,742.50
Benjamin Suhr	Tax Associate for 1 year; admitted in 2006.	\$225	10.50	\$2,362.50
Henry Bodenheimer	Global Corporate Associate for 1 year; admitted in 2006.	\$225	48.50	\$10,912.50
James Keys	Discovery Attorney	\$225	29.00	\$6,525.00
Nadine Payne	Discovery Attorney	\$225	19.60	\$4,410.00
Yomi Ayandipo	Discovery Attorney	\$225	40.50	\$9,112.50
Shaundelle Moore	Discovery Attorney	\$225	36.50	\$8,212.50
Deardra Turner	Discovery Attorney	\$225	20.50	\$4,612.50
Stephanie Morgan	Discovery Attorney	\$225	32.40	\$7,290.00
Josephine Robinson	Discovery Attorney	\$225	29.90	\$6,727.50
William Emanuel	Discovery Attorney	\$225	34.30	\$7,717.50
Amir Malik	Discovery Attorney	\$225	31.20	\$7,020.00
Rebecca Belmar	Case Manager	\$195	122.40	\$23,868.00
Rena Ceron	Case Manager	\$180 \$170	449.90 49.40	\$80,982.00 \$8,398.00

Randy Hooks	Legal Assistant	\$235	354.00	\$83,190.00
		\$225	14.60	\$3,285.00
Richard Cosentino	Legal Assistant	\$235	126.90	\$29,821.50
		\$225	5.40	\$1,215.00
Charles Sheehan	Legal Assistant	\$225	4.00	\$900.00
Cathy Teevan	Legal Assistant	\$225	2.80	\$630.00
Patrice Metz	Legal Assistant	\$220	177.40	\$39,028.00
		\$210	8.80	\$1,848.00
Meta Eingorn	Legal Assistant	\$205	318.70	\$65,333.50
Omar Ruffin	Legal Assistant	\$205	39.30	\$8,056.50
Anne Shaw	Legal Assistant	\$190	6.40	\$1,216.00
Kenneth Micallef	Legal Assistant	\$190	3.00	\$570.00
Meredith Sterling	Legal Assistant	\$185	88.30	\$16,335.50
		\$175	2.80	\$490.00
Kurt Maitland	Legal Assistant	\$175	3.40	\$595.00
Dakota Blake	Legal Assistant	\$175	30.10	\$5,267.50
Karen Jones	Legal Assistant	\$175	790.40	\$138,320.00
Ken Forman	Legal Assistant	\$170	13.50	\$2,295.00
Sakura Toyama	Legal Assistant	\$170	5.00	\$850.00
Michael Westcott	Legal Assistant	\$170	4.50	\$765.00
		\$160	11.00	\$1,760.00
Joshua Wolff	Legal Assistant	\$170	9.50	\$1,615.00
Paul Butters	Legal Assistant	\$165	3.00	\$495.00
		\$155	17.50	\$2,712.50
Matthew Seelig	Legal Assistant	\$160	9.90	\$1,584.00
Oksana Shabunko	Legal Assistant	\$160	169.90	\$27,184.00
Holly Erick	Legal Assistant	\$160	157.50	\$25,200.00
		\$150	32.60	\$4,890.00
Jeanine Boller	Legal Assistant	\$160	32.00	\$5,120.00
Ken Forman	Legal Assistant	\$160	6.00	\$960.00
Bharat Mandanna	Legal Assistant	\$160	3.00	\$480.00
Miho Shimasue	Legal Assistant	\$150	19.50	\$2,925.00
Scott McCabe	Legal Assistant	\$150	245.50	\$36,825.00
		\$140	364.70	\$51,058.00
Matthew Mitchell	Legal Assistant	\$150	4.00	\$600.00
Sean Norton	Legal Assistant	\$150	475.70	\$71,355.00
Angel Anderson	Legal Assistant	\$150	23.10	\$3,465.00
C. Kauffman	Legal Assistant	\$150	25.90	\$3,885.00
Nicholas Mazzarella	Legal Assistant	\$150	5.50	\$825.00

Lati Adedayo	Legal Assistant	\$150	9.80	\$1,470.00
Neil Netherly	Legal Assistant	\$150	143.30	\$21,495.00
Garvey Camilien	Legal Assistant	\$150	9.80	\$1,470.00
		\$90	19.20	\$1,728.00
		\$80	6.50	\$520.00
Madlen Hazarian	Legal Assistant	\$150	338.50	\$50,775.00
Lamson Dothan	Legal Assistant	\$150	37.90	\$5,685.00
		\$140	2.50	\$350.00
Rodney Adams	Legal Assistant	\$150	19.60	\$2,940.00
Sophia Ng	Legal Assistant	\$150	14.60	\$2,190.00
Shannon Freshour	Legal Assistant	\$145	13.10	\$1,899.50
Michael Glanzman	Legal Assistant	\$145	4.60	\$667.00
Samuel Salamone	Legal Assistant	\$145	7.50	\$1,087.50
Elliot Law	Legal Assistant	\$145	6.00	\$870.00
		\$135	157.20	\$21,222.00
Robert Singer	Legal Assistant	\$145	2.60	\$377.00
John Fraser	Legal Assistant	\$140	9.50	\$1,330.00
Louisa Crespi	Legal Assistant	\$145	198.90	\$28,840.50
		\$135	33.90	\$4,576.50
Charmaine Thomas	Legal Assistant	\$135	236.50	\$31,927.50
Benjamin Harris	Legal Assistant	\$135	3.50	\$472.50
Stephanie Hayton	Legal Assistant	\$135	312.10	\$42,133.50
Bryn Fuller	Legal Assistant	\$135	201.20	\$27,162.00
Mohsen Malik	Legal Assistant	\$100	7.00	\$700.00
Thomas Bivona	Director - Managing Atty. Dept.	\$240	1.70	\$408.00
Icsom Jones	Managing Attorney Clerk	\$180	1.90	\$342.00
Jacqueline Brewster	Managing Attorney Clerk	\$145	110.00	\$15,950.00
		\$135	40.50	\$5,467.50
Lena Mandel	Senior Attorney	\$550	150.10	\$82,555.00
		\$535	15.30	\$8,185.50
Alison Berger	Senior Counsel, Lit. Support	\$535	5.40	\$2,889.00
Jeff Isenberg	Litigation Support Director	\$345	36.90	\$12,730.50
		\$335	2.20	\$737.00
Paula Prudenti	Librarian	\$175	2.50	\$437.50
Matthew Ottenstein	Librarian	\$170	7.40	\$1,258.00
		\$160	4.80	\$768.00

Robin Traylor	Librarian	\$170	55.80	\$9,486.00
		\$160	4.60	\$736.00
Jose Vialet	Manager of Litigation Technology	\$290	3.30	\$957.00
Bradley Schaffel	Litigation Support Specialist	\$270	359.90	\$97,173.00
Joyanne Watson	Litigation Technology, Project Manager	\$270	183.70	\$49,599.00
Leslie Body	Litigation Support Specialist	\$245	85.00	\$20,825.00
Marcin Grabysz	Litigation Support Specialist	\$245	36.80	\$9,016.00
Christopher Coleman	Litigation Support Specialist	\$245	72.00	\$17,640.00
Mitchell Gaines	Computer Analyst	\$195	20.70	\$4,036.50
		\$185	109.20	\$20,202.00
Sarah Kagen	Librarian	\$185	.80	\$148.00
Gabriele Zsebi	Librarian	\$175	7.90	\$1,382.50
		\$165	6.40	\$1,056.00
Alexander Sacklowski	Librarian	\$175	9.50	\$1,662.50
Joshua Wallach	File Clerk	\$120	49.40	\$5,928.00
		\$110	15.00	\$1,650.00
Devon Pizzino	File Clerk	\$110	8.70	\$957.00
Dineli Diaz	File Clerk	\$100	19.00	\$1,900.00
<b>Total</b>		<b>\$456.33 (blended rate)<sup>1</sup></b>	<b>38,156.50 hours</b>	<b>\$17,411,950.00</b>

<sup>1</sup> The blended rate excluding paraprofessionals is \$524.79 per hour.

**SUMMARY TABLE OF SERVICES RENDERED DURING  
MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP'S  
FOURTH AND FINAL COMPENSATION PERIOD  
(OCTOBER 28, 2005–DECEMBER 26, 2006)**

<b>ACTIVITY</b>	<b>HOURS</b>	<b>FEES</b>
Adequate Protection Issues	88.80	43,360.00
Asset Sales (General)	183.10	90,821.00
Automatic Stay Enforcement	154.60	72,788.00
Business Plan Review	.70	357.00
Chapter 7 Issues	2,073.00	997,125.50
Claims Analysis	2,914.40	1,238,894.50
Committee Administration	1,081.20	424,978.50
Committee Meetings	569.00	361,546.00
Court Hearings	963.10	396,450.50
Customer Accounts - General	.50	112.50
Disclosure Statement	215.20	114,552.00
Employee Issues	72.20	36,214.00
Equipment/Personal Property	.50	85.00
Exclusivity Issues	16.70	8,848.00
Executory Contracts	17.20	8,377.50
Fee Application - Other	237.40	87,893.00
File, Docket and Calendar Maintenance	419.30	71,978.50
General Communications with Creditors	45.10	21,124.00
Governmental Investigations	14.80	9,955.00
Insurance Matters	41.10	18,443.00
International Insolvency	185.10	104,843.50
Preparation of Milbank Fee Application	1,009.90	345,477.00
Property of the Estate	461.10	252,141.50
Real Property Leases	45.70	24,275.50
Regulated Business Asset Sale	2,310.50	1,227,200.00
Reorganization Plan	3,633.20	2,023,181.00

Retention of Professionals	668.40	312,045.50
Rule 2004 Examinations	3,940.25	1,262,709.50
Tax Issues	13.50	5,936.00
Trading Book	3.10	1,706.50
Travel Time	370.00	182,046.50
RCM Trustee Issues	960.40	520,918.50
Voidable Transfers and Other Potential Claims	319.00	172,675.50
Rogers Raw Materials Fund	220.60	100,906.00
Inter Financial Services, LTD.	2.10	786.50
AQR Absolute Return Master	.10	71.00
Creditor Communications - Website	560.20	206,803.50
Plus Funds	256.60	134,059.50
Committee Minutes	110.10	49,935.00
Bank of America	191.00	110,948.00
FXCM Asset Sale	1,386.30	719,485.00
Sphinx Litigation	5,170.60	2,118,432.50
RCM/RSL Issues	525.10	301,869.00
Cargil Issues	96.80	47,250.50
Intercompany Claims	291.30	166,498.50
Equity Committee	564.60	274,854.50
Examiner Issues	449.20	186,402.00
Litigation of Stockbroker Issue	1,996.80	879,216.50
BAWAG	3,220.05	1,613,699.50
Subcommittee	87.00	61,672.50
<b>Total</b>	<b>38,156.50</b>	<b>\$17,411,950.00</b>

**SUMMARY TABLE OF DISBURSEMENTS BILLED DURING  
MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP'S  
FOURTH AND FINAL COMPENSATION PERIOD  
(OCTOBER 28, 2005—DECEMBER 26, 2006)**

<b>DISBURSEMENTS</b>	<b>AMOUNT</b>
Airfreight	35,084.58
Binding	2,426.58
Cab Fares/Local Travel	79,199.72
Computer Database Research	749,388.07
Court Reporting	31,756.71
Document Processing/Overtime	111,150.53
Document Retrieval	7,170.00
Fax	1,450.00
Filing Fees	1,333.60
Mail	494.12
Meals	39,372.94
Messenger	7,214.67
Photocopies/Printing	288,020.27
Professional Fees	7,055.16
Service of Subpoena	2,366.35
Telephone	16,274.42
Transcripts	63,114.28
Translation Fees	15,903.30
Travel	75,897.25
<b>TOTAL DISBURSEMENTS</b>	<b><u>\$1,531,672.55</u></b>



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Counsel for Official and Joint  
Committees of Unsecured Creditors  
of Refco Inc., et al.

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

-----X  
In re: : Chapter 11  
: :  
REFCO INC., et al., : Case No. 05-60006 (RDD)  
: :  
Debtors. : (Jointly Administered)  
-----X

**FOURTH AND FINAL APPLICATION OF MILBANK, TWEED, HADLEY &  
M<sup>C</sup>CLOY LLP, COUNSEL TO OFFICIAL AND JOINT COMMITTEES  
OF UNSECURED CREDITORS, FOR ALLOWANCE AND APPROVAL  
OF COMPENSATION FOR PROFESSIONAL SERVICES RENDERED AND  
FOR REIMBURSEMENT OF EXPENSES INCURRED DURING PERIOD FROM  
OCTOBER 28, 2005 THROUGH AND INCLUDING DECEMBER 26, 2006**

TO THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE:

Milbank, Tweed, Hadley & M<sup>C</sup>Cloy LLP ("Milbank"),  
counsel to (i) the Official Committee of Unsecured Creditors  
(the "Official Committee") of Refco Inc. and its affiliated  
debtors and debtors in possession (collectively, "Refco" or the  
"Debtors") in the above-captioned cases (the "Chapter 11 Cases")  
and (ii) the Joint Sub-Committee of the Official and Additional  
Committees of Refco Inc., et al. (the "Joint Committee," and  
together with the Official Committee, the "Committee") hereby

submits its application (the "Final Fee Application"), pursuant to 11 U.S.C. §§ 330 and 331, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on June 24, 1991 and amended April 21, 1995 (together, the "Local Guidelines"), the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, effective January 30, 1996 (the "U.S. Trustee Guidelines"), the Final Order Under 11 U.S.C. §§ 105 And 331 Establishing Procedures For Interim Compensation And Reimbursement Of Expenses Of Professionals, dated December 13, 2005 (the "Interim Compensation Order"), and the Supplemental Order Under 11 U.S.C. §§ 105 and 331 Establishing Procedures For Interim Compensation And Reimbursement Of Expenses Of Professionals, dated June 9, 2006 (the "Supplemental Interim Compensation Order"), for an order:

(i) allowing compensation for professional services rendered from October 1, 2006 through and including December 26, 2006 (the "Fourth Compensation Period") in the amount of \$2,058,567.50 and reimbursement of expenses incurred in connection with such services in the amount of \$160,265.23;

(ii) allowing, on a final basis, (a) compensation for professional services rendered from October 28, 2005 through and

including December 26, 2006 (the "Total Compensation Period") in the amount of \$17,411,950.00 and (b) reimbursement of expenses incurred in connection with such services in the amount of \$1,531,672.55 (which constitutes (A) one hundred percent (100%) of the compensation previously approved by the Court, on an interim basis, for professional services rendered from October 28, 2005 through and including September 30, 2006 in the amount of \$15,353,382.50; (B) one hundred percent (100%) of the expenses previously approved by the Court, on an interim basis, in the amount of \$1,371,407.32 for the period of October 28, 2005 through and including September 30, 2006; (C) one hundred percent (100%) of the compensation sought pursuant to this Application for the Fourth Compensation Period in the amount of \$2,058,567.50; and (D) reimbursement of one hundred percent (100%) of the expenses sought pursuant to this Application for the Fourth Compensation Period in the amount of \$160,265.23; and

(iii) authorizing and directing the Debtors to pay to Milbank the amount of \$864,715.62, which is the total amount outstanding to Milbank and unpaid by the Debtors pursuant to the Interim Compensation Order for services rendered and expenses incurred during the Total Compensation Period.

#### **PRELIMINARY STATEMENT**

1. The Committee, represented by Milbank throughout these Chapter 11 Cases, played a central role in the Debtors'

successful emergence from bankruptcy protection in just over one year. As set forth in this Final Fee Application, the matters addressed by Milbank, on behalf of the Committee, during the Total Compensation Period -- including, without limitation, (a) the BAWAG Settlement<sup>1</sup>, (b) the SPhinX Settlement, (c) numerous critical asset sales, and (d) the propounding and negotiation of a consensual chapter 11 plan -- evidence the central role that the Committee and its professionals played in these Chapter 11 Cases. The Committee, while effectively representing the interests of its constituents, at the same time cooperatively worked with the Debtors and their advisors to confirm a chapter 11 plan that promises substantial recoveries to most of the Debtors' creditors.

2. It did so, with Milbank's assistance, in three significant ways. First, the Committee and Milbank took the lead in putting in a place a structure (i.e., the litigation standstill and conversion trial process) that permitted the consensual investigation and, ultimately, the resolution of the cases' most pressing legal and economic issues.

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Joint Chapter 11 Plan of Refco Inc. and Certain of Its Direct and Indirect Subsidiaries filed on October 20, 2006 (as subsequently amended, modified, or supplemented).

3. Second, the Committee and Milbank undertook to prosecute claims against the SphinX Entities and BAWAG that yielded almost \$1 billion in settlement proceeds after just four months of litigation -- an unprecedented example of efficient and effective advocacy. In and of themselves, these recoveries went far to fill the hole in Refco's balance sheet created by the fraud that engendered Refco's downfall and paved the way to eventual agreement on a chapter 11 plan.

4. Third, armed with both the above-referenced settlement proceeds and a detailed recovery model developed in conjunction with the Committee's financial advisor, Houlihan Lokey Howard & Zukin, LLP ("Houlihan"), the Committee and Milbank played a leading role in, first, developing and, then, defending the consensus among the key parties in interest that resulted in confirmation of the Plan.

5. For the foregoing general reasons, as well as the more specific ones set forth herein, Milbank respectfully submits that the fees and expenses it incurred during the Chapter 11 Cases on behalf of the Committee were reasonable and provided clear and direct benefits to the Debtors' estates and their unsecured creditors.

## INTRODUCTION

### **A. Background**

6. Bankruptcy Filing. On October 17, 2005 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the "Bankruptcy Code").

7. Creditors' Committee. The Official Committee was appointed by the U.S. Trustee on October 28, 2005. On August 3, 2006, the United States Trustee bifurcated the Official Committee by reconstituting it and appointing an additional committee (the "Additional Committee"). On August 15, 2006, the Court entered a stipulation and order creating the Joint Committee pursuant to a consensual protocol between the Official Committee and the Additional Committee.

### **B. Retention of Milbank and Billing History**

8. Authorization for Milbank's Retention. On November 21, 2005, pursuant to the Interim Order Under 11 U.S.C. § 1103 And Fed. R. Bankr. P. 2014 And 5002 Authorizing Retention And Employment Of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP, As Counsel To Official Committee Of Unsecured Creditors Of Refco, Inc., et al. (the "Retention Order"), the Court authorized Milbank's retention as counsel for the Committee, effective as of October 28, 2005. The Retention Order, which became a Final Order on

December 7, 2005, authorized compensation to Milbank pursuant to the procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Guidelines, the U.S. Trustee Guidelines, the Interim Compensation Order and the Supplemental Compensation Order.

9. Statutory Basis For Application. Milbank makes this Final Fee Application for final approval and allowance of compensation and reimbursement of expenses for the Total Compensation Period pursuant to section 330 of the Bankruptcy Code.

10. Jurisdiction. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of the Chapter 11 Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Pursuant to the Local Guidelines, a certification regarding compliance with the Local Guidelines is attached hereto as Exhibit "A."

11. First Interim Fee Application. On March 27, 2006, Milbank submitted the First Application of Milbank, Tweed, Hadley & McCloy LLP, Counsel to Official Committee of Unsecured Creditors, for Interim Approval and Allowance of Compensation for Services Rendered and for Reimbursement of Expenses During Period from October 28, 2005 Through and Including January 31, 2006 (the "First Interim Compensation Period," and such interim

fee application being the "First Interim Fee Application")  
(Docket No. 1571).

12. In accordance with the Interim Compensation Order, Milbank submitted monthly fee statements to the Debtors seeking interim compensation and reimbursement of expenses. During the First Interim Compensation Period, Milbank submitted the following fee statements:

- (a) On December 20, 2005, pursuant to the Interim Compensation Order, Milbank served its first fee statement for the period from October 28, 2005 through and including November 30, 2005 (the "First Fee Statement"). The First Fee Statement sought an allowance of \$2,229,136.00 as compensation for services rendered and the reimbursement of \$95,556.94 in expenses. As of the date hereof, Milbank has received a total of \$2,324,692.94, which represents payment for (i) 100% of the Milbank's fees and (ii) 100% of the expenses.
- (b) On January 23, 2006, pursuant to the Interim Compensation Order, Milbank served its second fee statement for the period from December 1, 2005 through and including December 31, 2005 (the "Second Fee Statement"). The Second Fee Statement sought an allowance of \$1,224,708.00 as compensation for services rendered and the reimbursement of \$94,634.88 in expenses. As of the date hereof, Milbank has received a total of \$1,319,342.88, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.
- (c) On February 24, 2006, pursuant to the Interim Compensation Order, Milbank filed and served its third fee statement for the period from January 1, 2006 through and including January 31, 2006 (the "Third Fee Statement"). The Third Fee Statement sought an allowance of \$1,990,971.50 as compensation for services rendered and the reimbursement of \$139,202.82 in expenses. As of the date hereof, Milbank has received a total of \$2,130,174.32, which represents



payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.

9. On June 2, 2006, this Court granted the First Interim Fee Application and allowed Milbank's request for payment of (a) fees in the amount of \$4,350,314.00 (after adjustment for a 20% holdback in the amount of \$1,087,578.50); and (b) reimbursement of expenses incurred in the amount of \$329,394.64, for a total award of \$4,679,708.64 (Docket No. 2033).

10. Second Interim Fee Application. On July 20, 2006, Milbank submitted the Second Application of Milbank, Tweed, Hadley & McCloy LLP, Counsel to Official Committee of Unsecured Creditors, for Interim Approval and Allowance of Compensation for Services Rendered and for Reimbursement of Expenses During Period from February 1, 2006 Through and Including May 31, 2006 (the "Second Interim Compensation Period," and such interim fee application being the "Second Interim Fee Application") (Docket No. 2454).

11. During the Second Interim Compensation Period, Milbank submitted the following fee statements:

- (a) On March 20, 2006, pursuant to the Interim Compensation Order, Milbank served its fourth fee statement for the period from February 1, 2006 through and including February 28, 2006 (the "Fourth Fee Statement"). The Fourth Fee Statement sought an allowance of \$2,029,260.00 as compensation for services rendered and the reimbursement of \$138,928.52 in expenses. As of the date hereof, Milbank has

received a total of \$2,168,188.52, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.

- (b) On April 27, 2006, pursuant to the Interim Compensation Order, Milbank served its fifth fee statement for the period from March 1, 2006 through and including March 31, 2006 (the "Fifth Fee Statement"). The Fifth Fee Statement sought an allowance of \$1,549,707.00 as compensation for services rendered and the reimbursement of \$167,510.83 in expenses. As of the date hereof, Milbank has received a total of \$1,717,217.83, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.
- (c) On May 31, 2006, pursuant to the Interim Compensation Order, Milbank filed and served its sixth fee statement for the period from April 1, 2006 through and including April 30, 2006 (the "Sixth Fee Statement"). The Sixth Fee Statement sought an allowance of \$1,672,186.50 as compensation for services rendered and the reimbursement of \$210,653.27 in expenses. As of the date hereof, Milbank has received a total of \$1,882,839.77, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.
- (d) On June 7, 2006, pursuant to the Interim Compensation Order, Milbank filed and served its seventh fee statement for the period from May 1, 2006 through and including May 31, 2006 (the "Seventh Fee Statement"). The Seventh Fee Statement sought an allowance of \$1,194,101.00 as compensation for services rendered and the reimbursement of \$167,748.49 in expenses. As of the date hereof, Milbank has received a total of \$1,361,849.49, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.

12. On September 15, 2006, this Court granted the Second Interim Fee Application and allowed Milbank's request for payment of (a) fees in the amount of \$5,156,203.60 (after adjustment for a 20% holdback in the amount of \$1,289,050.90);

and (b) reimbursement of expenses incurred in the amount of \$683,495.29, for a total award of \$5,839,698.89 (Docket No. 2855).

13. Third Interim Fee Application. On November 15, 2006, Milbank submitted the Third Application of Milbank, Tweed, Hadley & McCloy LLP, Counsel to Official and Joint Committees of Unsecured Creditors, for Interim Approval and Allowance of Compensation for Services Rendered and for Reimbursement of Expenses During Period from June 1, 2006 Through and Including September 30, 2006 (the "Third Interim Compensation Period," and such interim fee application being the "Third Interim Fee Application") (Docket No. 3432).

14. During the Third Interim Compensation Period, Milbank submitted the following fee statements:

- (a) On July 28, 2006, pursuant to the Interim Compensation Order, Milbank served its eighth fee statement for the period from June 1, 2006 through and including June 30, 2006 (the "Eighth Fee Statement"). The Eighth Fee Statement sought an allowance of \$740,894.50 as compensation for services rendered and the reimbursement of \$81,915.26 in expenses. As of the date hereof, Milbank has received a total of \$822,809.76, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.
- (b) On August 31, 2006, pursuant to the Interim Compensation Order, Milbank served its ninth fee statement for the period from July 1, 2006 through and including July 31, 2006 (the "Ninth Fee Statement"). The Ninth Fee Statement sought an allowance of \$779,851.00 as compensation for services rendered and the reimbursement of \$68,525.17 in expenses. As of the date hereof, Milbank has received a total of

\$848,376.17, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.

- (c) On September 29, 2006, pursuant to the Interim Compensation Order, Milbank filed and served its tenth fee statement for the period from August 1, 2006 through and including August 31, 2006 (the "Tenth Fee Statement"). The Tenth Fee Statement sought an allowance of \$1,152,472.50 as compensation for services rendered and the reimbursement of \$120,090.50 in expenses. As of the date hereof, Milbank has received a total of \$1,272,563.00, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.
- (d) On October 27, 2006, pursuant to the Interim Compensation Order, Milbank filed and served its eleventh fee statement for the period from September 1, 2006 through and including September 30, 2006 (the "Eleventh Fee Statement"). The Eleventh Fee Statement sought an allowance of \$797,275.00 as compensation for services rendered and the reimbursement of \$87,986.46 in expenses. As of the date hereof, Milbank has received a total of \$885,261.46, which represents payment for (i) 100% of Milbank's fees and (ii) 100% of the expenses incurred.

15. On December 7, 2006, this Court granted the Third Interim Fee Application and allowed Milbank's request for payment of (a) fees in the amount of \$3,123,211.95 (after adjustment for a 10% holdback in the amount of \$347,023.55); and (b) reimbursement of expenses incurred in the amount of \$358,517.39, for a total award of \$3,481,729.34 (Docket No. 3798).

16. Additionally, on December 7, 2006, this Court allowed payment of the 20% of the fees previously held back with respect to Milbank's First and Second Interim Fee Applications

in the aggregate amount of \$1,087,578.50. Following the confirmation hearing held on December 15, 2006, this Court also allowed payment of the 10% holdback with respect to Milbank's Third Interim Fee Application in the amount of \$347,023.55.

17. Fourth Fee Application. This, in addition to being Milbank's Final Fee Application, is Milbank's application for approval and allowance of compensation and reimbursement of expenses incurred during the Fourth Compensation Period. During the Fourth Compensation Period, Milbank submitted the following fee statements:

- (a) On November 22, 2006, pursuant to the Interim Compensation Order, Milbank served its twelfth fee statement for the period from October 1, 2006 through and including October 31, 2006 (the "Twelfth Fee Statement"). The Twelfth Fee Statement sought an allowance of \$709,886.00 as compensation for services rendered and reimbursement of \$70,695.50 in expenses. As of the date hereof, Milbank has received a total of \$638,604.30, which represents payment for (i) 80% of Milbank's fees and (ii) 100% of the expenses incurred.
- (b) On January 5, 2007, pursuant to the Interim Compensation Order, Milbank served its thirteenth fee statement for the period from November 1, 2006 through and including November 30, 2006 (the "Thirteenth Fee Statement"). The Thirteenth Fee Statement sought an allowance of \$822,058.00 as compensation for services rendered and reimbursement of \$49,596.95 in expenses. As of the date hereof, Milbank has received a total of \$707,243.35, which represents payment for (i) 80% of Milbank's fees and (ii) 100% of the expenses incurred.
- (c) On January 31, 2007, pursuant to the Interim Compensation Order, Milbank served its fourteenth fee statement for the period from December 1, 2006 through and including December 26, 2006 (the "Fourteenth Fee Statement"). The Fourteenth Fee Statement sought an

allowance of \$526,623.50 as compensation for services rendered and reimbursement of \$39,972.78 in expenses. As of the date hereof, Milbank has received no payments on account of the Fourteenth Fee Statement.

18. This is also Milbank's Final Fee Application for approval and allowance, on a final basis, of compensation and reimbursement of expenses with respect to legal services provided to the Committee since its appointment through the Effective Date of the Plan (i.e., from October 28, 2005 through and including December 26, 2006).

19. Other than on an interim basis, no prior application has been made to this or any other court for the relief requested in this Final Fee Application.

20. Milbank has not entered into any agreement, express or implied, with any other party for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in these cases.

21. No promises have been received by Milbank or any member thereof as to compensation in connection with these cases other than in accordance with the provisions of the Bankruptcy Code.

#### **CASE STATUS**

22. Plan Confirmation and Effectiveness. On October 20, 2006, the Plan Proponents filed the Joint Chapter 11 Plan of Refco Inc. and Certain of Its Direct and Indirect Subsidiaries

(as subsequently amended, modified, or supplemented, the "Plan"). This Court held a confirmation hearing on December 15, 2006, and the Plan was confirmed by Order of this Court on December 15, 2006 (Docket No. 3971). The effective date of the Plan occurred on December 26, 2006 (the "Effective Date").

23. Post-Effective Functions of the Committee.

Pursuant to Section 5.11(a) of the Plan, as of the Effective Date, the Committee was dissolved, except with respect to: "(i) all Professional Fees and matters relating to the Fee Committee, (ii) any appeals of the Confirmation Order and (iii) the continuation and completion of any litigation to which the Creditors' Committee or the Additional Committee, as applicable, is a party as of the Effective Date."

**APPLICATION**

24. By this Final Fee Application, Milbank is seeking (a) allowance of compensation for professional services rendered during the Fourth Compensation Period in the amount of \$2,058,567.50 and reimbursement of expenses incurred in connection with such services in the amount of \$160,265.23; and (b) approval, on a final basis, of the amount of \$17,411,950.00 for legal services rendered on behalf of the Committee during the Total Compensation Period and the amount of \$1,531,672.55 for reimbursement of expenses incurred in connection with the

rendition of such services, for a total award of \$18,943,622.55 (the "Total Application Request").

25. The Total Application Request is based upon the fees and expenses granted in connection with the First Interim Fee Application, Second Interim Fee Application, Third Interim Fee Application and the fees and expenses requested herein for the Fourth Compensation Period.

26. Pursuant to the previously approved interim fee applications and the Interim Compensation Order, Milbank has received payment of \$18,078,906.93 on account of legal services rendered and expenses incurred through December 26, 2006. Milbank seeks a payment of \$864,715.62, which amount represents the portion of Milbank's fees for legal services rendered and reimbursement of expenses incurred during the Total Compensation Period not previously paid to Milbank.

27. To the extent any further payments are made in accordance with the Interim Compensation Order prior to the hearing on this Final Fee Application, Milbank will apprise the Court of such payments and revise its payment request accordingly.

28. The fees sought by this Final Fee Application reflect an aggregate of 38,156.5 hours of attorney and paraprofessional time expended and recorded in performing services for the Committee during the Total Compensation Period,



at a blended average hourly rate of \$456.33 for both professionals and paraprofessionals. The blended hourly rate for professionals only is \$524.79.

29. Milbank rendered to the Committee all services for which compensation is sought solely in connection with these cases, in furtherance of the duties and functions of the Committee.

30. Milbank maintains computerized records of the time expended in the rendition of the professional services required by the Committee. These records are maintained in the ordinary course of Milbank's business. For the convenience of the Court and parties in interest, a billing summary for the Total Compensation Period is attached as part of the cover sheet, setting forth the name of each attorney and paraprofessional for whose work on these cases compensation is sought, each attorney's year of bar admission, the aggregate of the time expended by each such attorney or paraprofessional, the hourly billing rate for each such attorney or paraprofessional at Milbank's current billing rates and an indication of the individual amounts requested as part of the total amount of compensation requested. In addition, set forth in the billing summary is additional information indicating whether each attorney is a partner or associate, the number of years each attorney has held such position, and each attorney's area of

concentration. The compensation requested by Milbank is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code.

31. Attached to Milbank's First Interim Fee Application, Second Interim Fee Application and Third Interim Fee Application were time entry records broken down in tenths of an hour by project category, based on the U.S. Trustee Guidelines, setting forth a detailed description of services performed by each attorney and paraprofessional on behalf of the Committee for each of those respective interim compensation periods, which are incorporated herein by reference.<sup>2</sup>

32. Attached hereto as Exhibit B are time entry records for the Fourth Compensation Period broken down in tenths of an hour by project category, based on the U.S. Trustee Guidelines, setting forth a detailed description of services performed by each attorney and paraprofessional on behalf of the Committee.

33. Milbank also maintains computerized records of all expenses incurred in connection with the performance of

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<sup>2</sup> Although the time entry records are publicly available on the docket for these Chapter 11 Cases, Milbank will provide such records to any party in interest upon request.

professional services. Attached to Milbank's First Interim Fee Application, Second Interim Fee Application and Third Interim Fee Application were summaries of the amounts and categories of expenses for which reimbursement was sought, as well as a breakdown of expenses by project category and detailed descriptions of these expenses for each of those respective interim compensation periods, which are incorporated herein by reference.<sup>3</sup>

34. A summary of the amounts and categories of expenses for the Fourth Compensation Period for which reimbursement is sought, as well as a breakdown of expenses by project category and detailed descriptions of these expenses are attached hereto as Exhibit C.

**SUMMARY OF PROFESSIONAL SERVICES RENDERED**

35. As discussed above, Milbank has previously submitted eleven (11) fee statements in these Chapter 11 Cases and three (3) interim fee applications pursuant to the Interim Compensation Order. Each of the First Interim Fee Application, the Second Interim Fee Application and the Third Interim Fee Application, including all exhibits to such applications, are incorporated herein by reference.

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<sup>3</sup> Although the expense descriptions are publicly available on the docket for these Chapter 11 Cases, Milbank will provide such descriptions to

36. To provide an orderly summary of the services rendered by Milbank on behalf of the Committee, and in accordance with the U.S. Trustee Guidelines, Milbank has established the following separate project billing categories in connection with these cases:

- (a) Asset Sales - General
- (b) Automatic Stay Enforcement & Litigation
- (c) Claims Analysis
- (d) Committee Administration
- (e) Committee Meetings
- (f) Court Hearings
- (g) Disclosure Statement
- (h) Exclusivity Issues
- (i) Executory Contracts
- (j) Fee Applications - Other
- (k) File, Docket & Calendar Maintenance
- (l) General Communications with Creditors
- (m) Governmental Investigations
- (n) Insurance Matters
- (o) International Insolvency Matters
- (p) Preparation of Milbank Fee Applications
- (q) Regulated Business Asset Sale
- (r) Regulatory Issues
- (s) Reorganization Plan
- (t) Retention of Professionals
- (u) Travel Time
- (v) RCM Trustee Issues
- (w) Voidable Transfers and Other Potential Claims
- (x) Rogers Raw Materials Fund v. Refco Capital Markets, Ltd. (05-03064)
- (y) Creditor Communications Website
- (z) Plus Funds
- (aa) Committee Minutes
- (bb) Bank of America
- (cc) FXCM Asset Sale
- (dd) Sphinx Litigation
- (ee) RCM/RSL Issues
- (ff) Cargill Issues

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any party in interest upon request.

- (gg) Intercompany Claims
- (hh) Equity Committee Issues
- (ii) Examiner Issues
- (jj) BAWAG Issues
- (kk) Subcommittee

37. The following summary is intended only to highlight key services rendered by Milbank in certain project billing categories where Milbank has expended a considerable number of hours on behalf of the Committee, and is not meant to be a detailed description of all of the work performed.

Detailed descriptions of the day-to-day services provided by Milbank and the time expended performing such services in each project billing category are fully set forth in the exhibits to the First Interim Fee Application, the Second Interim Fee Application, the Third Interim Fee Application and Exhibit "B" attached hereto for the Fourth Compensation Period. Such detailed descriptions show that Milbank was heavily involved in the performance of services for the Committee on a daily basis, including night and weekend work, often under extreme time constraints to meet the needs of the Committee in these cases.

**A. Asset Sales, Including Regulated Business (Refco LLC) Asset Sale**

38. Throughout these cases, Milbank has aided the Committee in the sales of various Refco assets. On behalf of the Committee, Milbank attorneys from the Global Corporate, Financial Restructuring, and other practice groups worked

closely with the Committee's financial advisor, Houlihan, to maximize the returns to the Debtors' estates realized in these sales and/or ensure that the Debtors did not enter into sale transactions that were not in the best interests of the Debtors' estates.

39. Milbank regularly drafted and disseminated memoranda to the Committee analyzing the proposed transactions and providing the Committee with recommended courses of action. In addition, Milbank regularly advised the Committee as to the material terms of bids received and the status of the various sale processes generally.

40. During the Fourth Compensation period, transactions reviewed and negotiated by Milbank included (i) continuing closing and reconciliation issues with respect to the sale of Refco's regulated futures business (the "Regulated Business"), including certain related Canadian assets; (ii) the sale of Refco's foreign exchange or "FX" customer list database; (iii) the sale of Refco's 4% equity stake in Bank Frick & Co. Atkiengesellschaft ("Bank Frick"); (iv) the sale of Refco Commodity Management, Inc.'s ("RCMI's") interest in JWH Global Trust; and (v) the sale of various miscellaneous assets. The consummation of these sales have yielded substantial proceeds to the Refco Estates.

41. **Regulated Futures Business.** During the First Interim Compensation Period, Milbank attorneys played a lead role in facilitating the sale of the Regulated Business to Man Financial, Inc. ("Man") in connection with a round-the-clock auction conducted on November 9 and November 10, 2005. Milbank's efforts on behalf of the Committee resulted in a significant enhancement in the value obtained for the Regulated Business. During the Fourth Compensation Period, Milbank attorneys dedicated time and effort to the consummation of all components of the Man sale and the resolution of outstanding issues under the sale agreement with Man.

42. **FXA Customer List Sale Auction.** Milbank attorneys expended time and effort during the Fourth Compensation Period in connection with the auction of the FXA Customer List held on November 9, 2006. Saxo Bank A/S ("Saxo") acted as the stalking horse during the auction and Gain Capital Group, LLC ("Gain"), the prior proposed purchaser of the customer lists, submitted a qualified bid shortly prior to the November 7, 2006 bidding deadline. At the auction, it was determined that Gain's bid of \$750,000 was the highest and best offer and the sale was consummated with Bankruptcy Court approval.

43. **Bank Frick.** Bank Frick is a privately held, family-managed Liechtenstein bank. In June 2003, Refco Global

Finance Ltd. ("RGF") purchased a 4% minority stake in Bank Frick, for CHF 800,000 or approximately \$600,000. Shortly after the filing of the Chapter 11 Cases, Bank Frick approached the Debtors to propose a repurchase of Refco's stake.

44. The Debtors and Bank Frick then engaged in negotiations, culminating in an agreement to the terms of a Share Sale and Purchase Agreement, pursuant to which Refco was to have transferred, subject to Court approval, its equity interest in Bank Frick back to Bank Frick in exchange for CHF 1,200,000 (or approximately \$918,000), without deduction or setoff of any kind. The proposed sale -- for which the Debtors sought approval in a motion filed on March 10, 2006 -- was not to be subject to an auction process typically associated with sales of assets under Section 363(b) of the Bankruptcy Code.

45. While the proposed sale purported to offer a 50% return on the Debtors' investment (in less than a three-year period), the Committee had doubts about the value of the offer Bank Frick made for the Refco stake in light of claims that Refco might have against Bank Frick. As a result of the Committee's diligence and investigation, the sale was ultimately deferred to permit a more thorough investigation of the relationship between Bank Frick and Refco and the price properly payable by Bank Frick to buy back Refco's 4% stake.



46. During the Fourth Compensation Period, the Committee worked side-by-side with the Debtors in a variety of efforts to increase the price payable by Bank Frick for Refco's stake, while preserving all claims that the Debtors might have against Bank Frick. Such efforts resulted in significantly better terms for the sale of Refco's 4% interest in Bank Frick approved by the Bankruptcy Court on December 6, 2006.

47. **Other Asset Sales**. In connection with certain other prospective asset sales -- as well as in connection with approval by the Court of a process for the sale of assets having de minimis value -- Milbank attorneys worked closely with the Debtors, the Debtors' professionals, and the Committee's other professionals, to negotiate the terms and conditions of purchase agreements, related transaction documents with potential purchasers of such assets, as well as the terms of relevant Bankruptcy Court orders.

**B. Claims Analysis Of Voidable Transfers  
And Other Potential Claims**

48. During the Total Compensation Period, Milbank attorneys performed research and developed their legal and factual analyses of potential defendants and potential causes of action against those potential defendants, as well as related issues regarding statute of limitations, standing, forfeiture, and potential damages. Such efforts entailed both significant

legal research and extensive factual inquiry, based, in large part, on the documentary evidence obtained by the Committee pursuant to Bankruptcy Rule 2004 subpoenas and on the analysis and increasing understanding of the genesis and growth of the RGHI receivables.

49. More specifically, Milbank had been, and remained engaged during the Fourth Compensation Period, in investigations that, broadly speaking, were focused on the work done by professionals for Refco, actions by participants in the fraud at the Refco Entities, and fraudulent transfers to both insiders and third parties. As an example of potentially recoverable transfers, the Committee investigated significant payments made to Refco insiders and those with ties to Refco insiders. This includes payments made in the course of Refco's leveraged recapitalization and in the course of its initial public offering.

50. Milbank's investigation of potential claims against entities that were engaged to perform professional services included examination of work done by outside professionals, including auditors, accountants, tax professionals and lawyers. In addition, Milbank investigated potential claims against certain persons and entities that knew, or should have known, of the fraud. In this context, Milbank investigated the role of executives and insiders at Refco as

well as others whose actions and transfers helped conceal the nature of the related-party receivables at Refco.

51. Milbank also prepared presentations to the Committee regarding all potential defendants and causes of action. Preparation of these presentations entailed legal research and the distillation of relevant facts and circumstances into a cogent summary of claims potentially available against a large number of defendants.

52. Finally, in connection with the claims allowance and estimation process, Milbank also reviewed certain proofs of claim filed by significant insiders of the Debtors and prepared objections to or motions to estimate such claims at zero.

**C. Committee Administration**

53. Throughout these cases, Milbank attorneys and paralegals expended considerable time preparing and assembling materials for numerous Committee meetings and hearings in the Chapter 11 Cases, and monitoring and apprising Committee members of ongoing developments in the Debtors' Chapter 11 Cases. Milbank attorneys also attended and participated in periodic internal team meetings, convened for the purposes of apprising team members of recent developments, delegating tasks, and ensuring the efficient administration of the Committee's affairs.

**D. Committee Meetings And Minutes**

54. Throughout these cases, numerous issues arose that required meetings of the Committee to be telephonically held with regularity. Prior to each Committee meeting, and in accordance with the Bylaws Of Official Committee Of Unsecured Creditors Of Refco Inc., et al. (the "Committee Bylaws"), Milbank attorneys prepared an agenda listing topics for discussion. Milbank also distributed related materials on behalf of the Committee's professionals for the Committee members' review. During the Committee meetings, Milbank discussed with Committee members and their counsel all significant matters and assisted the Committee in formulating positions with respect to such issues.

55. During the Fourth Compensation Period, Milbank attorneys hosted and participated in numerous telephonic meetings of the Committee to discuss and formulate strategies with respect to, among other things, ongoing plan negotiations, the BAWAG Settlement, issues related to FXCM, the SPhinX Settlement appeal, the Chapter 15 filing of SPhinX, and issues related to plan confirmation and implementation.

56. Also, in accordance with the Committee Bylaws, and as directed by the U.S. Trustee, Milbank attorneys recorded minutes (the "Minutes") during each of the Committee meetings conducted throughout these cases. The Minutes identified those

Committee members (and their counsel) in attendance at the Committee meetings, described agenda items discussed and Committee resolutions, and set forth the results of all votes taken by the Committee members with respect to particular issues.

**E. Court Hearings**

57. Throughout these cases, Milbank attorneys regularly appeared on behalf of the Committee at hearings held in the Chapter 11 Cases. These hearings included regularly scheduled omnibus hearings as well as hearings on numerous motions and objections. In addition, during the Fourth Compensation Period, Milbank attorneys appeared at hearings in connection with multiple adversary proceedings and plan confirmation.

**F. File, Docket & Calendar Maintenance**

58. Throughout these cases, Milbank attorneys and legal assistants spent considerable time monitoring the docket, filing pleadings, updating calendar notifications regarding hearing and objection deadlines and notifying relevant parties of upcoming matters.

**G. General Communications With Creditors**

59. Throughout these cases, Milbank attorneys, on behalf of the Committee, responded to numerous communications received from creditors (including, most particularly, the

retail customers of Refco F/X Associates, LLC) by email, phone, fax and letter.

**H. Insurance Matters**

60. Throughout these cases, Milbank attorneys reviewed various insurance matters, including most significantly: (i) a motion by U.S. Specialty Insurance Company ("U.S. Specialty") to lift the automatic stay in order to pay directors and officers liability coverage (the "U.S. Specialty Motion") and (ii) a motion by Arch Insurance Company ("Arch") to lift the automatic stay (the "Arch Motion").

61. **U.S. Specialty**. On behalf of the Committee, Milbank attorneys drafted an objection to the U.S. Specialty Motion on the grounds that (i) amounts paid under the Policy would no longer be available to satisfy claims against the Debtors' estates or claims the estates may have against its former directors and officers; and (ii) U.S. Specialty did not demonstrate any benefit to the Debtors' estates in paying out millions of dollars under the Policy for the benefit of officers and directors who may be guilty of wrongdoing.

62. The Court granted the U.S. Specialty Motion on March 27, 2006, but held that U.S. Specialty must notify Milbank when disbursements of defense costs to its policy exceed \$100,000 in the aggregate, and when such disbursement exceed \$200,000, \$300,000 and increments of \$100,000 thereafter.

63. **Arch Motion**. Arch requested relief from the automatic stay to prosecute an insurance coverage litigation (the "Coverage Litigation") it had filed against certain directors and officers of the Debtors. Because lifting the stay, as Arch requested, could have caused detriment to the Debtors' estates that outweighed any benefit to Arch, the Committee filed an objection arguing that the Arch Motion should be denied. In the alternative, the Committee argued that Arch's prosecution of the Coverage Litigation should be enjoined pursuant to section 105(a) of the Bankruptcy Code because the denial of the coverage under Arch's policy (the "Arch Policy") as to the Debtors' directors and officers could have an equally detrimental impact on the scope and value of the Debtors' own insurance coverage.

64. The Bankruptcy Court acknowledged the risks raised by the Arch Motion, but, finding that only the interests of non-Debtor parties were directly affected thereby, it granted the motion after oral argument on June 8, 2006. In so doing, however, it expressly limited the relief granted, as requested by the Committee, to seeking denial of coverage as to former directors and officers and prohibited Arch from amending the complaint in the Coverage Litigation to seek cancellation or rescission of the Arch Policy or to add current directors or any affiliates of the Debtors as defendants.

**I. International Insolvency Matters**

65. **Bermuda Cases**. On October 19, 2005, RCM and Refco Global Finance Ltd. ("RGF" and together with RCM the "Bermuda Entities") each filed petitions in the Supreme Court of Bermuda seeking the appointment of a provisional liquidator. On October 31, 2005, the Bermuda Entities filed an amended petition seeking the appointment of Michael W. Morrison of KPMG Financial Advisory Services Ltd., Bermuda and Richard Heis of KPMG, England as Joint Provisional Liquidators in the Bermuda insolvency cases (the "JPLs").

66. During the Total Compensation Period, Milbank attorneys reviewed the fee protocol proposed by the JPLs (the "JPL Fee Protocol"). At the direction of the Committee, Milbank attorneys expended considerable time negotiating with the JPLs and their counsel to reach a mutually agreeable framework regarding the JPL's fees. Having found themselves unable to reach an agreement with the JPLs, Milbank attorneys, on behalf of the Committee, drafted and filed an objection to the JPL Fee Protocol.

67. In addition, Milbank attorneys worked throughout the Total Compensation Period with the Committee's Bermuda counsel to (i) oppose the JPLs' motion before the Supreme Court of Bermuda to approve the JPL Fee Protocol; and (ii) properly qualify the JPLs' application to modify the scope of their powers



after the appointment of the RCM Trustee. After numerous adjournments, on August 8, 2006, the motion of the JPLs was withdrawn.

68. In the Fourth Compensation Period, Milbank attorneys continued to work with the Committee's Bermuda counsel seeking, once again, to reach a consensual settlement with the JPLs. In this connection, Milbank (i) opposed an effort by the JPLs to have the Bermuda Court assume exclusive authority over JPL fee matters; and (i) ultimately, was solely responsible for procuring a settlement with the JPLs that saved the Debtors more than \$1 million in fees and expenses.

69. ACM. On December 15, 2005, RCM and Refco F/X Associates, LLC ("RFX") filed a complaint and commenced an adversary proceeding against ACM Advanced Currency Markets S.A. ("ACM") (the "ACM Adversary Proceeding") seeking, among other relief, damages, as well as sanctions, costs, expenses and attorneys' fees, arising from ACM's willful violations of the automatic stay, each arising from actions ACM's minority shareholders took to increase their ownership interests in ACM. On February 17, 2006, ACM filed a motion (the "Motion To Dismiss") seeking to dismiss the ACM Adversary Proceeding.

70. Throughout the Total Compensation Period, Milbank attorneys spent considerable time reviewing the pleadings and operative documents concerning the ACM Adversary Proceeding as

well as the underlying transactions. In addition, Milbank attorneys filed, on behalf of the Committee, a joinder in the Debtors' opposition to the Motion to Dismiss and monitored ongoing settlement talks between the parties.

**J. Preparation of Milbank Fee Applications**

71. Throughout these cases, Milbank attorneys reviewed Milbank's monthly fee statements for, among other purposes, compliance with the Interim Compensation Order, as amended, and the Local Guidelines. Milbank also served its fee statements and the Interim Fee Applications on all parties required by the Interim Compensation Order, coordinated with the Debtors to allocate the Committee's fees and expenses for internal Debtor accounting purposes, and responded to any inquiries regarding its fee statements or Fee Application posed by parties.

**K. Review of Fee Applications - Other**

72. Throughout these cases, Milbank attorneys and legal assistants expended time (i) reviewing fee statements filed by other professionals; (ii) preparing summaries of such fee statements for review by members of the Committee; and (iii) preparing fee committee budgets.

**L. Disclosure Statement**

73. Milbank attorneys worked closely with the Debtors to draft and extensively revise the 134-page Disclosure

Statement ultimately filed by the Plan Proponents in support of the Plan. In connection with the Disclosure Statement, Milbank attorneys also: (i) assisted in drafting and revising detailed summaries of developments in the Chapter 11 Cases; (ii) assisted in drafting detailed summaries of the reasons for and benefits of the global compromises underlying the Plan; and (iii) reviewed and analyzed key aspects of the Plan's structure, including the proposed "consensual pooling of assets," its complex distribution scheme, discrete tax issues and complicated default provisions.

74. Most significantly, Milbank attorneys dedicated substantial time and effort to working with the Debtors, their advisors and Houlihan, to incorporate into the Disclosure Statement recovery projections and a liquidation analysis that reflected months of review and analysis by the Debtors' and Committee's professionals.

75. Milbank attorneys also (i) reviewed litigation and private action trust term sheets and commented on various issues contained therein; and (ii) worked with the Debtors to draft a motion seeking approval of the procedures, including a number of complex ballots, for soliciting votes on acceptance or rejection of the Plan; and (iii) reviewed and revised tax disclosures in the Disclosure Statement.

76. Finally, Milbank attorneys expended time and effort working with the Debtors to analyze and respond to the more than 15 objections that were filed in opposition to the approval of the Disclosure Statement, which efforts proved ultimately successful when the Disclosure Statement was approved by the Court on October 16, 2006.

**M. Reorganization Plan**

77. Milbank attorneys worked closely with Houlihan to (i) analyze potential recoveries to creditors of RCM under a chapter 11 plan; (ii) draft and finalize a detailed recovery analysis for presentation to the Committee and other creditor constituencies; (iii) review the impact of the RCM Settlement; (iv) analyze distribution issues; and (v) review the impact of various guarantees and intercompany claims on recovery scenarios. With a view to forging a consensual plan resolution among RCM's creditors, Milbank attorneys also drafted a detailed plan term sheet for RCM, outlining the framework for a chapter 11 plan and providing the basis for future plan negotiations.

78. These efforts involved extensive and frequent discussions among Milbank attorneys, the Committee, Houlihan, Alix Partners and Skadden, lengthy drafting sessions, a collaborative analysis of the relevant issues, and near-constant revisions and remodeling of potential recoveries and the legal assumptions on which they are based.

79. In furtherance of a consensual plan resolution for RCM, Milbank attorneys also hosted and attended several meetings among RCM's creditors and the RCM Trustee, at which Milbank and Houlihan presented their recovery analysis, and discussed and negotiated the terms of a potential chapter 11 plan.

80. Milbank attorneys also (i) reviewed, analyzed on a comparative basis, and discussed with the Committee, a plan term sheet proposed by Abadi & Co., an institutional investor and creditor of RCM; (ii) reviewed, analyzed on a comparative basis, and discussed with the Committee a bondholder term sheet; (iii) provided further assistance to RCM creditors with respect to ascertaining the origin and potential bases for allocation of RCM assets among securities, foreign exchange and other clients; (iv) drafted a motion for allocation of the BAWAG proceeds; and (v) reviewed and commented on the Litigation Trust Agreement and the Private Actions Trust Agreement.

81. Milbank's efforts eventually led to the Plan that was confirmed on December 15, 2006 following a confirmation hearing. In connection with Plan confirmation, Milbank attorneys (i) reviewed multiple objections to confirmation; (ii) reviewed document requests and managed a large discovery process; (iii) participated in a discovery procedures hearing; (iv) created and maintained a document depository and privilege

log; (v) prepared witnesses and exhibits for the confirmation hearing; and (vi) participated in the settlement of objections of major creditor parties.

**N. Retention of Professionals**

82. During the Total Compensation Period, Milbank worked with the Committee to interview and select the Committee's other professionals, including (i) Houlihan as financial advisors, (ii) Trott & Duncan, as Bermuda counsel, (iii) Campbells, as Cayman Island counsel; (iv) Kasowitz, Benson, Torres & Friedman LLP, as conflicts counsel; (v) Fiebinger, Polak, Leon & Partners Rechtsanwälte GmbH as Austrian counsel; (vi) FTI as forensic accountants, and (vii) Wildman Harrold Allen & Dixon LLP as local Chicago counsel. Additionally, at the request of the Committee, Milbank assisted in the preparation of the Committee's retention applications for these other professionals, as well as preparing Milbank's own retention application.

83. In the Total Compensation Period, Milbank attorneys, at the direction of the Committee, prepared two applications to amend the retention of Houlihan as the scope of Houlihan's retention increased. In the Fourth Compensation Period, Milbank attorneys expended considerable time participating in discovery, depositions, and a hearing regarding

the proposed second amendment to Houlihan's retention application.

84. Throughout the Total Compensation Period, Milbank reviewed the applications and other matters concerning the retention and compensation of the professionals of the Debtors, the RCM Trustee, and other parties in these cases. As part of this review, Milbank, at the direction of the Committee, filed limited objections to the proposed retention of AP Services, LLC, as crisis managers for the Debtors, and of Latham & Watkins LLP, as special investigative counsel to the Debtors which, in each case, resulted in a modification of their respective proposed employment terms.

85. Additionally, Milbank attorneys prepared, but did not file, an objection to the retention of the Debtors' financial advisor, Greenhill & Co. ("Greenhill"), contending that the success and other fees sought by Greenhill were above-market and assumed the performance by Greenhill of certain services that the Debtors might not require. As a result of extensive negotiations with Greenhill and the Debtors, Greenhill agreed to cap its fees at \$5,300,000, an amount substantially less than the minimum fees of \$7,500,000 sought in Greenhill's retention application. Milbank also negotiated modifications to the retention application of McKenna, Long & Aldridge, LLP, counsel to the Examiner, that ensured that the services it

rendered would not exceed the limited scope of the Examiner's mandate.

**O. Rule 2004 Investigations**

86. During the Total Compensation Period, Milbank collected and reviewed documents from more than thirty entities and persons that had been served with Bankruptcy Rule 2004 subpoenas ("Rule 2004 Subpoenas") issued pursuant to two orders granting Rule 2004 discovery ("Rule 2004 Orders").

87. During the Fourth Compensation Period, Milbank attorneys continued to communicate with counsel to those parties to facilitate ongoing production of documents, including communicating with counsel about missing document ranges, the electronic format and accessibility of certain respondents' productions, and the extent of the remaining document production. In addition, Milbank attorneys continued to review the documents received, identifying and segregating key documents.

88. Milbank also continued to pursue parties who resisted producing documents in response to the Rule 2004 Subpoenas. Milbank evaluated filing a motion for sanctions against a respondent for noncompliance with a discovery order. In addition, after Tone Grant filed an appeal from the Illinois Bankruptcy Court's order compelling production of documents in response to the Committee's Rule 2004 Subpoena, Milbank prepared



and filed an opposition to Grant's appeal. Milbank also negotiated with counsel for PricewaterhouseCoopers LLC concerning an issue impeding final production of documents and filed a stipulation and proposed order resolving same.

89. In addition, Milbank undertook the process to share electronically in an efficient manner the voluminous discovery received by the Committee in response to the Rule 2004 Subpoenas with the Examiner and other parties in interest permitted to receive such information under the Committee's confidentiality understanding with the U.S. Attorney's Office. Further, Milbank reviewed its files and Rule 2004 productions in connection with a request made to the Committee and its counsel for documents obtained pursuant to the Rule 2004 orders.

90. Finally, Milbank reviewed Rule 2004 documents and prepared interview questions for certain Rule 2004 respondents that agreed to meet with Milbank and the Examiner for informal interviews.

**P. Travel Time**

91. Throughout these cases, Milbank attorneys had to periodically travel to address various matters critical to these Chapter 11 Cases. In particular, during the Fourth Compensation Period, Milbank attorneys traveled between Washington and New York to address the issues related to (i) the SPhinX Settlement, including attending appeal hearings

concerning the approval of the settlement, the Chapter 15 filing, Rule 2004 discovery issues and the foreign insolvency proceedings recognition, and (ii) issues related to plan confirmation and implementation. Additionally, Milbank attorneys traveled between New York, Atlanta and Chicago to attend to various discovery and Rule 2004 examination of witnesses.

**Q. RCM Trustee Issues**

92. On April 13, 2006, Marc S. Kirschner was appointed to serve as chapter 11 trustee for RCM (the "RCM Trustee"), with a mandate to, among other things, explore potential global settlement options. Subsequent thereto, Milbank attorneys spent substantial time engaged in litigation and/or negotiations with the RCM Trustee concerning the RCM Trustee's pursuit of his mandate.

93. In this connection, during the Fourth Compensation Period, Milbank attorneys spent significant time (i) reviewing the RCM settlement agreement with Rogers Funds (the "Rogers Fund Settlement") and motion to approve the same; (ii) drafting an objection to the motion to approve the RCM settlement agreement; (iii) preparing for and conducting depositions of the RCM Trustee in connection with the Committee's objection to the Rogers Fund Settlement; (iv) reviewing the RCM Trustee's reply to the Committee's objection

to the Rogers Fund Settlement; (v) preparing for cross examination of the RCM Trustee regarding the Rogers Fund Settlement; (vi) researching and analyzing customer status and property issues, including cash tracing issues; and (vii) drafting a quiet title adversary counterclaim.

**R. Examiner Issues**

94. On January 27, 2006, the U.S. Trustee filed the motion to appoint an examiner (the "Examiner Motion"). On March 16, 2006, the Court granted the Examiner Motion. In its order (the "Examiner Appointment Order"), the Court required that the Examiner consult with the Debtors and the Committee in developing a work plan and budget for the Examiner's investigations. The Examiner, Joshua Hochberg, was appointed by the U.S. Trustee on April 10, 2006.

95. In May 2006, the U.S. Trustee made a motion to clarify the scope of the Examiner Appointment Order. In connection therewith, the Examiner, the Committee, and the Debtors were instructed to work cooperatively. In accordance with that direction, in the Fourth Compensation Period, Milbank attorneys continued to hold numerous telephone conferences with the Examiner and his counsel, and to provide the Examiner with Rule 2004 discovery materials and updates on the Committee's investigation.

**S. Creditor Communications - Website**

96. Throughout these cases, Milbank attorneys updated and maintained an Internet-accessed website (the "Committee Website"), as required by the Creditor Information Protocol, which the Bankruptcy Court approved by Order entered on December 23, 2005. The Committee website was visited by thousands of Refco creditors and has served as a model for other committee websites in other large chapter 11 cases. In addition, Milbank attorneys responded to creditor inquiries and comments received through the Committee Website and sent "real time" case updates to creditors who registered for such updates on the Committee Website.

**T. PlusFunds**

97. During these Chapter 11 Cases, Milbank attorneys conducted diligence with respect to a series of loans made by Refco Capital LLC to enable certain third party entities to purchase the capital stock of PlusFunds Group, Inc. ("PlusFunds"). In an effort to understand the PlusFunds loan transactions, Milbank attorneys reviewed voluminous documents related thereto, had numerous conferences and attended meetings with counsel for PlusFunds, and prepared and negotiated an informal letter request for information. Based upon such diligence and review, Milbank attorneys prepared comprehensive memoranda to the Committee regarding the loan transactions and

possible challenges thereto. Milbank attorneys also had conferences with respect to the loans to PlusFunds in an effort to understand the transactions and to deliberate any actions to take with respect thereto

98. During the First Interim Compensation Period, counsel to PlusFunds informed Milbank that PlusFunds was instituting a process for the sale of the equity of PlusFunds, including the sale of the loans made by Refco. In connection therewith, Milbank attorneys reviewed timelines prepared by counsel for PlusFunds, reviewed correspondence to be delivered to potential purchasers and had numerous conferences with counsel to PlusFunds to ensure that the Committee played an active role in any potential sale.

99. Also during these Chapter 11 Cases, PlusFunds filed a petition for relief under chapter 11 of the Bankruptcy Code. In connection therewith, and to ensure that the Committee's interests were not negatively affected by PlusFunds' bankruptcy, Milbank lawyers monitored PlusFunds' chapter 11 case, including review of pleadings filed in PlusFunds' chapter 11 case and attending hearings. Milbank lawyers reviewed the chapter 11 plan and disclosure statement filed by PlusFunds to

ensure that they did not adversely impact any of the Debtors' rights.<sup>4</sup>

100. Milbank attorneys also drafted and filed an objection to proofs of claim filed by PlusFunds in these Chapter 11 Cases for amounts in excess of \$750 million, related to the SPhinX Settlement, which objections led to an agreement with PlusFunds that any claim ultimately allowed in its favor would be capped at \$7 million.

**U. Bank of America**

101. Immediately after the Petition Date, on October 18, 2005, Bank of America, N.A., as Administrative Agent for the Secured Lenders, filed a motion seeking the entry of an order conditioning the use by the Debtors of the Secured Lenders' collateral upon the provision of adequate protection for any diminution in value of such collateral (the "Adequate Protection Motion"). Under interim orders entered on October 21, 2005, November 10, 2005, July 24, 2006 and September 27, 2006, the Bankruptcy Court granted the Adequate Protection Motion, authorizing the Debtors to use or transfer up to \$11.15 million of the Secured Lenders' cash collateral and requiring the Debtors to use all reasonable efforts to preserve the value of

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<sup>4</sup> In addition, Milbank filed limited objections to PlusFunds' motion to establish bidding procedures for the sale of its

such collateral. Pursuant to the interim orders, adequate protection was provided for any diminution in value.

102. During the Fourth Compensation Period, Milbank attorneys, on behalf of the Committee, spent time addressing issues raised by the Adequate Protection Motion. In particular, Milbank reviewed and commented on a modified form of adequate protection order that would have permitted both the payment of adequate protection to the Secured Lenders and the payment of the Debtors' substantial professional fees.

103. Finally, Milbank worked with counsel for other constituencies to address, negotiate and obtain Bankruptcy Court approval of the Early Payment Order, which provided for the payment in full of the Secured Lenders' claims, with interest and fees. The impetus for the Early Payment Order was a desire by the Committee and other key creditor constituencies to terminate the payment of substantial monthly interest to the Secured Lenders, which was accruing at a rate in excess of \$10 million per month.

**V. SPhinX Litigation**

104. In late 2005, Milbank, as counsel to the Committee, on behalf of RCM, investigated potential claims, and commenced an adversary proceeding (the "SPhinX Adversary")

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business and to modify a stipulation with the Committee.

against SPhinX Managed Futures Fund SPC, *et al.* ("SPhinX"). The action sought to avoid a transfer of more than \$312 million (the "Transfer") from RCM to SPhinX's accounts at Refco, LLC in the days before the Petition Date and to recover the Transfer for the benefit of RCM's estate.

105. After extensive motion practice and discovery exchange, Milbank attorneys negotiated with counsel for SPhinX and eventually entered into a settlement agreement pursuant to which SPhinX agreed to return to Refco's estates \$263 million and to waive any bankruptcy claims that SPhinX might have had with respect to the returned money (the "SPhinX Settlement"). This extraordinary recovery for the Debtors' estates was achieved as a result of months of work by Milbank attorneys.

106. Milbank attorneys documented the terms of the settlement and sought approval of the SPhinX Settlement under Bankruptcy Rule 9019. The only objections to the Rule 9019 motion filed by the Committee on April 27, 2006, were from entities that were direct or indirect investors in SPhinX, all of which (i) contended that the SPhinX Settlement was too favorable to the Debtors' estates and (ii) sought extensive discovery in an effort to derail the settlement.

107. Milbank attorneys have expended substantial time and effort in responding to the objections to the SPhinX Settlement. After the Bankruptcy Court approved the settlement



in its entirety, Milbank attorneys took the lead in consolidating and responding to the various appeals to the settlement filed by the disgruntled SPhinX investors. Approval of the SPhinX Settlement was affirmed by the United States District Court for the Southern District of New York (the "District Court") and is now on appeal to the United States Court of Appeals for the Second Circuit. Milbank has continued to take the lead in responding to these appeals.

108. In addition, Milbank attorneys have defended against collateral attacks on the SPhinX Settlement. Milbank attorneys took the lead in opposing the effort by Cayman Island-liquidators appointed to liquidate the SPhinX entities to obtain recognition of the Cayman Island liquidation proceedings as foreign main proceedings under Chapter 15 of the Bankruptcy Code. The Bankruptcy Court accepted Milbank's argument that the liquidators had failed to demonstrate that the Cayman Islands were the "center of main interests" as required by the Chapter 15 of the Bankruptcy Code, and the Bankruptcy Court therefore recognized the Cayman Island liquidation proceedings only a foreign non-main proceedings (the "Foreign Proceedings Decision"). The recognition of the Cayman Islands proceedings only as foreign non-main proceedings meant that there was no automatic stay of any actions, including the various appeals of the approval of the SPhinX Settlement. Thereafter, Milbank

attorneys responded to discovery demands filed by the SPhinX Liquidators.

109. During the Fourth Compensation Period, Milbank attorneys have continued to respond to the efforts by the SPhinX Liquidators to stay the pending appeals of the SPhinX Settlement through the Chapter 15 process. The SPhinX Liquidators filed a notice of appeal to the District Court of the Foreign Proceedings Decision. Milbank attorneys took the lead in opposing the appeal, including preparing a record on appeal, researching the legal issues, preparing the appellee brief and, recently, participating in oral argument on the same. The appeal is now *sub judice* with the District Court.

110. Also, during the Fourth Compensation Period, Milbank attorneys reviewed the various proofs of claim filed by SPhinX, the SPhinX Liquidators and certain of the SPhinX investors. Based on their familiarity with the issues, Milbank attorneys prepared or reviewed objections to the SPhinX proofs of claim to assist both the Debtors and the RCM Trustee. Most of the outstanding proofs of claim have been resolved satisfactorily to the estates.

**W. RCM/RSL Issues**

111. Prior to the Petition Date, RCC made a series of loans to RSL totaling \$127,459,910.00 (the "RCC Debt"). When Milbank attorneys became aware that other RSL creditors were

seeking judgments against RSL and had the ability to execute on RSL's assets, thereby disadvantaging RCC, Milbank attorneys prepared pleadings for the turnover of the RCC Debt. Specifically, Milbank attorneys drafted a motion for authorization for the Committee to bring a turnover action on behalf of RCC against RSL. In connection therewith, Milbank attorneys also drafted (i) a complaint, to be filed in the event that authority to bring the RSL turnover action was granted by this Court, (ii) a proposed order, affidavit, and order to show cause, (iii) a motion for a temporary restraining order and preliminary injunction and (iv) a motion for summary judgment. Milbank attorneys devoted considerable time to preparing the Committee's pleadings, and to carefully researching the issues presented and analyzed therein.

112. Subsequent thereto, Milbank attorneys entered into negotiations with RSL, the RCM Trustee and RSL's other creditors to settle the competing claims against RSL's limited assets so that RSL's creditors would be paid on a *pro rata* basis.

113. As a result of such negotiations, RSL, the RCM Trustee and the Committee, on behalf of RCC, entered into a stipulation and order whereby RSL agreed to pay the RCC Debt *pro rata* with RSL's other creditors, and on a timetable agreed to by the parties. Milbank attorneys spent considerable time

negotiating, preparing and reviewing the stipulation and order. As a result of these efforts, the RCC estate received payment of the RCC Debt.

**X. Cargill Issues**

114. Throughout these cases, Milbank's attorneys expended substantial time supporting the Debtors' efforts to defeat the objection (the "Cargill Objection") filed by Cargill, Incorporated ("Cargill") to certain aspects of the sale of the Debtors' regulated futures business to Man. The sale agreement with Man provided for the assumption by Man of a valuable contract (the "Exclusivity Contract") to which Cargill was a party, and on account of which the Debtors had asserted no cure payments were due to Cargill.

115. Cargill objected to the assumption and assignment to Man of the Exclusivity Contract on the basis that the Exclusivity Contract was integrated with certain other contracts to which Cargill was a party (and which were not being assumed by Man), and demanded a substantial cure payment. The Committee supported the Debtors' efforts to have the Cargill Objection denied by filing a thoroughly researched joinder in the Debtors' reply and arguing at the hearing for the denial of the Cargill Objection. On January 30, 2006, the Bankruptcy Court agreed with the Debtors' and the Committee's arguments and overruled the Cargill Objection. On February 14, 2006, the Court entered

an order disposing of Cargill Objection, from which Cargill filed a notice of appeal on February 24, 2006 (the "Cargill Appeal"). Milbank attorneys subsequently (i) expended time reviewing the relevant documents underlying the appeal; (ii) negotiated an appeal briefing schedule with the Debtors, Man, and Cargill, which was memorialized by a stipulation approved by the District Court; (iii) drafted, served, and filed a joinder in the brief the Debtors, as appellees, filed in that appeal; and (iv) prepared for and attended oral argument before the District Court in the Cargill Appeal.

**Y. Equity Committee**

116. On February 2, 2006, the law firm of Andrews & Kurth L.L.P., on behalf of JMB Capital Partners, LP, Lonestar Capital Management, LLC, Mason Capital Management, Smith Management, LLC, and Triage Management LLC (collectively the "Ad Hoc Equity Committee"), submitted a letter (the "Ad Hoc Equity Committee Letter") to the United States Trustee requesting the appointment of an official committee of equity security holders in these Chapter 11 Cases.

117. Milbank attorneys reviewed the Ad Hoc Equity Committee Letter and researched the legal issues raised therein. Milbank then prepared, at the request of the Committee, a response letter, ultimately submitted to the U.S. Trustee on March 7, 2006, setting forth the Committee's arguments as to why

an equity committee should not be appointed in these Chapter 11 Cases. On April 13, 2006 -- due in large measure to the Committee's extensive submissions on the issue -- the U.S. Trustee declined to appoint an official committee of equity security holders pending the results of the Examiner's report.

118. In response, on May 1, 2006, the Ad Hoc Equity Committee filed a motion (the "Equity Committee Motion") with the Bankruptcy Court seeking appointment of an equity committee pursuant to section 1102(a)(2) of the Bankruptcy Code. Milbank attorneys took the lead in opposing the Equity Committee Motion, expending, in the process, substantial time and effort (i) negotiating and submitting for court approval a briefing and discovery schedule for the Equity Committee Motion; (ii) researching and drafting a 48-page objection and a surreply to the Equity Committee Motion; (iii) working with Houlihan to understand and rebut arguments made by the Ad Hoc Equity Committee about the "solvency" of certain Debtors; (iv) preparing for and taking the deposition of the expert witness proffered by the Ad Hoc Equity Committee; and (v) preparing for and attending oral argument on the Equity Committee Motion. At a hearing on June 8, 2006, the Bankruptcy Court denied the Equity Committee Motion.

119. On August 15, 2006, the Ad Hoc Equity Committee renewed its request to the U.S. Trustee for the appointment of

an official equity committee. Milbank once again expended considerable time and effort on behalf of the Committee in opposing the appointment of an official equity committee. As a result, by letter dated August 31, 2006, the U.S. declined to appoint such a committee.

**Z. BAWAG Issues**

120. During the Second Interim Compensation Period, on April 25, 2006, the Committee, acting on behalf of Refco Group Ltd., LLC ("RGL"), filed the most significant lawsuit in these cases against Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft ("BAWAG"), Austria's fourth largest bank and an alleged co-conspirator of Philip R. Bennett, Refco's former CEO, seeking to recover more than \$1.325 billion.

121. At the outset of the suit, thanks to Milbank's extensive diligence and comprehensive preparations, the Committee was able to obtain an ex parte order of attachment that froze several hundred million dollars that BAWAG had on deposit in New York. Shortly thereafter, due in large measure to the impact of the attachment on BAWAG's operations, the parties entered into expedited settlement negotiations to resolve the litigation. These settlement negotiations produced a settlement that, in absolute terms, encompassed up to in excess of \$1.0 billion in value.

122. Milbank attorneys expended substantial time and effort seeking approval of the Stipulation and Order of Settlement through a Rule 9019 motion and responding to objections filed by the Ad Hoc Equity Committee and other creditors regarding the same. The Court approved the settlement after a lengthy hearing on the Rule 9019 motion.

123. One creditor group appealed the approval of the BAWAG settlement. Milbank attorneys took the lead on responding to the appeal, including coordinating the designation of the appellate record and drafting the appellate papers. Immediately prior to the hearing on the appeal, the creditor appellant withdrew the appeal.

124. Finally, Milbank attorneys engaged in extensive motion practice to allocate a portion of the proceeds from the settlement with BAWAG to the estate of Refco Group, Ltd. ("RGL") to facilitate a payment to Refco's Secured Lenders (the "Allocation Motion"). The primary opposition to the Allocation Motion again came from the Ad Hoc Equity Committee, which claimed that most of the proceeds of the settlement with BAWAG should be reserved for Refco Inc. During the Fourth Compensation Period, Milbank attorneys prepared responses to the objections filed to the Allocation Motion and prepared for the hearing on the Allocation Motion. The Allocation Motion was



approved by court order on October 5, 2006 (the "Allocation Order").

125. Initially, the Debtors received \$506 million in the settlement, and one or more of the Debtors could also receive up to another \$150 million if BAWAG or any of its subsidiaries is sold or otherwise recapitalized under certain circumstances within two years. In December 2006, BAWAG was sold to a consortium led by Cerberus Capital Management for approximately \$3.4 billion dollars. If the proposed sale is consummated at that price level, the Debtors are likely to receive the full \$150 million additional payment contemplated under the terms of the BAWAG Settlement and Allocation Order.

126. All the foregoing, moreover, was accomplished at minimal cost to, or diversion of resources from, the Debtors' estates. Litigations of this type have been known to last years and consume tens of millions of dollars. The Committee was able to file its Rule 9019 Motion seeking approval of the proposed settlement just 41 days after commencement of the BAWAG litigation. As a consequence, the fees incurred to arrive at the proposed settlement in this extraordinarily short timeframe were just a fraction of any reasonably projected amount for the results achieved.

**AA. Subcommittee Issues**

127. Subsequent to the appointment of the RCM Trustee, who was appointed to serve the interest of RCM creditors generally (including those members of the Committee who were predominantly RCM creditors), the Committee voted, on May 26, 2006, to establish a subcommittee (the "Subcommittee"), the mandate of which would be to evaluate and advance the interests of non-RCM creditors and authorized Milbank to represent the Subcommittee in its dealings with RCM Trustee and on related issues.

128. In connection with its representation of the Subcommittee, Milbank attorneys participated in numerous telephonic meetings of the Subcommittee and reviewed pleadings, settlements, and other documents which affected the interests represented by the Subcommittee.

**FACTORS TO BE CONSIDERED IN AWARDING ATTORNEYS' FEES**

129. The factors to be considered in awarding attorneys fees as enumerated in In re First Colonial Corp. of America, 544 F.2d 1291, 1298-99 (5th Cir. 1977), have been adopted by most courts.<sup>5</sup> Milbank respectfully submits that the

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<sup>5</sup> In re Nine Assocs., Inc., 76 B.R. 943, 945 (S.D.N.Y. 1987). The factors embraced by the Fifth Circuit in First Colonial were adopted by the Fifth Circuit's decision in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), except that First Colonial also

consideration of these factors should result in this Court's allowance of the full compensation sought.

- (A) The Time and Labor Required. The professional services rendered by Milbank on behalf of the Committee have required the continuous expenditure of substantial time and effort, under time pressures which sometimes required the performance of services late into the evening and, on a number of occasions, over weekends and holidays. The services rendered required a high degree of professional competence and expertise in order to be administered with skill and dispatch.
- (B) The Novelty and Difficulty of Questions. Novel and complex issues have arisen in the course of these chapter 11 cases. In these cases, as in many others in which the firm is involved, Milbank's effective advocacy and creative approach to problem solving have helped clarify and resolve difficult issues.
- (C) The Skill Requisite to Perform the Legal Services Properly. Milbank believes that its recognized expertise in the area of financial restructuring, its ability to draw from highly experienced professionals in other areas of its practice such as structured finance, mergers and acquisitions, litigation, environmental and regulatory law and its practical approach to the resolution of issues helped maximize distributions to the Debtors' unsecured creditors.
- (D) The Preclusion of Other Employment by Applicant Due to Acceptance of the Case. Due to the size of Milbank's financial restructuring department and the firm as a whole, Milbank's representation of the Committee has

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included the "spirit of economy" as a factor which was expressly rejected by Congress in enacting section 330 of the Bankruptcy Code. Stroock & Stroock & Lavan v. Hillsborough Holdings Corp. (In re Hillsborough Holdings Corp.), 127 F.3d 1398, 1403 (11th Cir. 1997). The remaining First Colonial factors continue to apply to determine the reasonableness of fees awarded under the Bankruptcy Code. 3 Collier on Bankruptcy ¶ 330.04[3][c] (Lawrence P. King, et al., eds., 15th ed. 1997). In addition, a majority of the First Colonial factors are now codified in section 330(a)(3). Id.

not precluded the acceptance of new clients. However, the number of matters needing attention on a continuous basis has required several of Milbank's attorneys to commit significant portions of their time to these cases.

- (E) The Customary Fee. The compensation sought herein is based upon Milbank's normal hourly rates for services of this kind. Milbank respectfully submits that the compensation sought herein is not unusual given the magnitude and complexity of these cases and the time dedicated to the representation of the Committee. Such compensation is commensurate with fees Milbank has been awarded in other cases, as well as with fees charged by other attorneys of comparable experience.
- (F) Whether the Fee is Fixed or Contingent. Milbank charges customary hourly rates for the time expended by its attorneys and paraprofessionals in representing the Committee, and Milbank's fee is not outcome dependent.
- (G) Time Limitations Imposed by Client or Other Circumstances. As stated above, Milbank has been required to attend to various issues as they have arisen in these Chapter 11 Cases. Often, Milbank has had to perform these services under significant time constraints requiring attorneys and paraprofessionals assigned to these cases to work evenings and on weekends.
- (H) The Amount Involved and Results Obtained. According to the Debtors, the Committee represents the interests of unsecured creditors holding unsecured claims estimated at several billion dollars. Through Milbank's efforts, the Committee has been an active participant in these Chapter 11 Cases. The Committee's participation, with Milbank's counsel and guidance, greatly contributed to the efficient administration of these cases and timely liquidation of the Debtors' assets.
- (I) The Experience, Reputation and Ability of the Attorneys. Milbank has a sophisticated and nationally recognized corporate reorganization and financial restructuring practice, and Milbank attorneys involved in this representation have played a major role in numerous complex restructurings including, for

example, the chapter 11 cases of Enron Corp., Winn-Dixie Stores, Inc., RCN Corp., Internet Corp., Fruit of the Loom Inc., Adelpia Communications Corp., US Airways Group, Inc., Global Crossing Ltd., Fleming Companies, Inc., Dairy Mart Convenience Stores, Inc., Lernout & Hauspie Speech Products N.V., Teligent, Inc., World Access, Inc., ORBCOMM Global, L.P., ICO Global Communications Inc., Safety-Kleen Corp., HomePlace Stores, Inc., Hvide Marine, Inc., Sun TV and Appliances, Inc., Seven-Up/RC Bottling Company of Southern California, Inc. and Ames Department Stores, Inc. Milbank's experience enabled it to perform the services described herein competently and expeditiously.

(J) The "Undesirability" of the Case. These cases are not undesirable but, as already indicated, have required a significant commitment of time from many of Milbank's attorneys.

(K) Nature and Length of Professional Relationship. Milbank was selected as the Committee's counsel shortly after the Committee's formation, on October 28, 2005, and was retained nunc pro tunc to that date pursuant to the Retention Order. Milbank has been rendering services continuously to the Committee since the Committee was formed, and Milbank has rendered such services in a necessary and appropriate manner.

#### **ALLOWANCE OF COMPENSATION**

129. The professional services rendered by Milbank have required a high degree of professional competence and expertise to address, with skill and dispatch, the numerous issues requiring evaluation and action by the Committee. Milbank respectfully submits that the services rendered to the Committee were performed efficiently, effectively and economically, and that the results obtained to date have benefited not only the members of the Committee, but also the unsecured creditors as a whole and the Debtors' estates.

130. With respect to the level of compensation, section 330(a)(1)(A) of the Bankruptcy Code provides, in pertinent part, that the Court may award to a professional person, "reasonable compensation for actual, necessary services rendered." Section 330(a)(3)(A), in turn, provides that:

In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including -

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and
- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3)(A).

131. The congressional policy expressed above provides for adequate compensation in order to continue to attract qualified and competent professionals to bankruptcy cases. In re Busy Beaver Bldg. Ctrs., Inc., 19 F.3d 833, 850 (3d Cir. 1994) ("Congress rather clearly intended to provide sufficient economic incentive to lure competent bankruptcy specialists to

practice in the bankruptcy courts.") (citation and internal quotation marks omitted); In re Drexel Burnham Lambert Group, Inc., 133 B.R. 13, 18 (Bankr. S.D.N.Y. 1991) ("Congress' objective on requiring that the market, not the Court, establish attorneys' rates was to ensure that bankruptcy cases were staffed by appropriate legal specialists.").

132. The total time spent by Milbank attorneys and paraprofessionals during the Total Compensation Period was 38,156.5 hours and has a fair market value of \$17,411.950. As shown by this Final Fee Application and supporting exhibits, Milbank's services were rendered economically and without unnecessary duplication of efforts. In addition, the work involved, and thus the time expended, was carefully assigned in consideration of the experience and expertise required for each particular task.

#### **EXPENSES**

133. Milbank has incurred a total of \$1,531,672.55 in expenses in connection with representing the Committee during the Total Compensation Period. In connection with the reimbursement of expenses, Milbank's policy is to charge its clients in all areas of practice for expenses, other than fixed and routine overhead expenses, incurred in connection with representing its clients. The expenses charged to Milbank's clients include, among other things, telephone and telecopy toll

and other charges, mail and express mail charges, special or hand delivery charges, photocopying charges, out-of-town travel expenses, local transportation expenses, expenses for working meals, computerized research and transcription costs.

134. Milbank charges the Debtors for these expenses at rates consistent with those charged to Milbank's other bankruptcy clients, which rates are equal to or less than the rates charged by Milbank to its non-bankruptcy clients. Milbank seeks reimbursement from the Debtors at the following rates for the following expenses: (a) fifteen cents (\$0.15) per page for photocopying; (b) no charge for incoming facsimiles; (c) toll charges only for outgoing facsimiles; and (d) ten cents (\$0.10) per minute for long distance. In accordance with section 330 of the Bankruptcy Code, the Local Guidelines and with the U.S. Trustee Guidelines, Milbank seeks reimbursement only for the actual cost of such expenses to Milbank.<sup>6</sup>

135. In providing or obtaining from third parties services which are reimbursable by clients, Milbank does not

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<sup>6</sup> The cost of expenses Milbank is seeking reflects any discounted rates based on volume or other discounts which Milbank anticipates receiving from certain outside vendors; however, Milbank does not perform a retrospective reconciliation of any "year-end" adjustments (positive or negative) to the actual discounted cost of such expenses.



include in such reimbursable amount any costs of investment, equipment or capital outlay.

136. Milbank regularly charges its non-bankruptcy clients for ordinary business hourly fees and expenses for secretarial, library, word processing and other staff services because such items are not included in the firm's overhead for the purpose of setting the billing rates.

137. Attorneys at Milbank have not incurred expenses for luxury accommodations or deluxe meals. The Final Fee Application does not seek reimbursement of any air travel expenses in excess of coach fares. Throughout the Total Compensation Period, Milbank has been keenly aware of cost considerations and has tried to minimize the expenses charged to the Debtors' estates.

**WAIVER OF MEMORANDUM OF LAW**

138. Based on the supporting authorities contained herein, and because this Final Fee Application presents no novel issues of law, the Committee respectfully requests that the Court waive the requirement of Local Bankruptcy Rule 9013-1(b) of filing a separate memorandum of law in support of this Final Fee Application.

**NOTICE**

139. Notice of this Final Fee Application has been given to (a) the Debtors, (b) counsel for the Debtors, (c) the

Office of the United States Trustee, (d) counsel for the agent for the Debtors' secured lenders; and (e) counsel for the RCM Trustee. In light of the nature of the relief requested herein, the Committee requests that such notice be deemed adequate and sufficient.

#### **CONCLUSION**

WHEREFORE, Milbank respectfully requests the Court enter an Order (a) allowing Milbank compensation for professional services rendered during the Fourth Compensation Period in the amount of \$2,058,567.50 and for reimbursement of expenses incurred in connection with such services in the amount of \$160,265.23; (b) final approval of all fees for professional services rendered during the Total Compensation Period in the amount of \$17,411,950 and of reimbursement of all expenses incurred in connection with such services in the amount of \$1,531,672.55; (c) authorizing and directing the Debtors to pay to Milbank \$864,715.62, which is the total amount outstanding to Milbank and unpaid by the Debtors pursuant to the Interim Compensation Order for services rendered and expenses incurred

during the Total Compensation Period; and (d) granting such further relief as is just and proper.

Dated: February 28, 2007

MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP

By:       /s/ Luc A. Despins        
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