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Hearing Date: April 11, 2007  
Objection Deadline: March 28, 2007 at 10:00 A.M.

Special Litigation Counsel for Refco Inc., et al.,

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

*In re*

Refco Inc., et al.,

Confirmed Debtors.

Chapter 11

Case No. 05-60006 (RDD)

Jointly Administered

**FIRST AND FINAL FEE APPLICATION OF SONNENSCHN NATH  
& ROSENTHAL LLP AS SPECIAL LITIGATION COUNSEL FOR THE  
DEBTORS FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED**

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

Sonnenschein Nath & Rosenthal LLP (“Sonnenschein”), special litigation counsel to Refco Inc. et al., (the “Debtors”), as and for its first and final fee application (the “Application”) pursuant to 11 U.S.C. § 330 for an allowance of compensation for services rendered respectfully represents:

**Introduction**

1. By this Application, Sonnenschein seeks a first and final allowance and award of compensation for the professional services rendered by Sonnenschein as special litigation counsel for the Debtors for the period of November 20, 2006, through December 26, 2006, (the

“Retention Period”) in the amount of \$9,646.00, representing 18.20 hours in professional services rendered by Sonnenschein during the Retention Period.

### **Jurisdiction and Venue**

2. This Court has jurisdiction over this Application pursuant to 28 U.S.C. § 1334. This is a “core” proceeding within the meaning of 28 U.S.C. §§ 157(b)(2)(A) and (O). The statutory predicate for the relief sought herein is 11 U.S.C. § 330 and Federal Rules of Bankruptcy Procedure 2002(a) and 2016. Venue of this case and this Application is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. This Application is made pursuant to this Court’s order dated December 15, 2006, which, among other things, confirmed the Modified Joint Chapter 11 Plan of Refco Inc. and certain of its Direct and Indirect Subsidiaries (the “Plan”).

### **Background**

4. On October 17, 2005, most of the Debtors filed with this Court their voluntary petitions for relief under chapter 11 of title 11 of the United States Code (as amended, the “Bankruptcy Code”).

5. On October 20, 2006, this Court entered an order approving the Disclosure Statement With Respect to Amended Joint Chapter 11 Plan Of Refco Inc. and Certain of its Direct and Indirect Subsidiaries.

6. On December 15, 2006, this Court entered an order approving the Debtors’ retention of Sonnenschein as special litigation counsel effective as of November 20, 2006.

7. On December 15, 2006, this Court entered an order confirming the Plan. The Plan became effective pursuant to the terms set forth therein on December 26, 2006.

**Appointment as Special Litigation Counsel to the Debtors**

8. Prior to its retention as special litigation counsel to the Debtors, Sonnenschein represented, and continues to represent, a nondebtor affiliate of Refco Inc., Refco Securities LLC (“RSL”), in connection with a pending dispute with Cantor Fitzgerald Securities (“Cantor”).

9. On or about June 19, 2006, Cantor instituted an arbitration (the “Arbitration”) in New York City with the National Association of Securities Dealers, Inc., Case No. 06-02954. The basis of the Arbitration is an alleged breach of a transaction fee agreement (the “Transaction Fee Agreement”) entered into in 2004 by and among Cantor, Cantor Fitzgerald L.P., eSpeed, Inc., RSL, and Refco Group Ltd., LLC (“Refco Group”).

10. On or about July 12, 2006, Cantor filed a claim in this Court against Refco Group, which claim was amended on October 25, 2006 (the “Claim”). The Claim is in the amount of \$11,193,466.00.

11. In addition to RSL’s dispute with Cantor, Refco Group holds a 10% interest in Cantor Index Holdings, L.P. (“Cantor Index”), which Refco Group acquired in 2002 by investing \$8 million in Cantor Index. Cantor owns the remaining 90% interest in Cantor Index.

12. As a result of Sonnenschein’s familiarity with the Transaction Fee Agreement and its continued representation of RSL in the Arbitration, Sonnenschein was uniquely qualified to represent Refco Group in connection with its ownership interest in Cantor Index.

13. Moreover, and as disclosed in the application to retain Sonnenschein, Skadden, Arps, Slate, Meagher & Flom, the Debtors’ general bankruptcy counsel, represents Cantor and Cantor affiliated entities in matters wholly unrelated to the Debtors’ bankruptcy cases and the Arbitration.

### **Order Authorizing Sonnenschein's Retention**

14. On December 15, 2006, at the hearing to approve Sonnenschein's retention, this Court ordered and authorized the Debtors' retention of Sonnenschein as special litigation counsel to represent Refco Group in accordance with Sections 105(a), 327(e) and Federal Rule of Bankruptcy Procedure 2014, effective as of November 20, 2006 (the "Sonnenschein Retention Order"). The Sonnenschein Retention Order, dated December 15, 2006, is attached hereto as Exhibit "A."

15. The Retention Application and the Affidavit of Peter D. Wolfson in Support of the Retention Application have also been included as part of Exhibit "A."

16. Sonnenschein has not entered into any agreement or understanding with any other person for the sharing of compensation to be received for the services rendered in these cases.

17. All of the services for which compensation is sought herein were rendered for or on behalf of the Debtors solely in connection with these cases.

### **Confirmation of Plan**

18. This Application is submitted pursuant to this Court's Findings of Fact, Conclusions of Law, and Order Confirming The Modified Joint Chapter 11 Plan of Refco Inc. and Certain of Its Direct and Indirect Subsidiaries entered on December 15, 2006. (the "Confirmation Order").

19. Pursuant to paragraph 18 of the Confirmation Order, " All professionals and other entities requesting compensation or reimbursement of Professional Fee Claims pursuant to 327, 328, 330, 331, or 503(b) of the Bankruptcy Code for services rendered prior to the Confirmation Date shall serve on the Reorganized Debtors and counsel for the Reorganized Debtors and on the RCM Trustee and his counsel an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Effective Date, unless

otherwise ordered by the Court.” The effective date of the Plan occurred on December 26, 2006 (the “Effective Date”).

**Summary of Services Rendered during the Retention Period**

20. Sonnenschein seeks payment for services rendered to the Debtors for an approximate one month period, from November 20, 2006, through December 26, 2006. While it was anticipated that the Debtors’ Plan would be confirmed on December 15, 2006, it was not a certainty that confirmation would occur on that date. Consequently, in light of the ongoing negotiations between the Refco entities and Cantor, Sonnenschein and the Debtors believed that the prudent course of action was to seek Sonnenschein's retention as soon as possible.

21. Consequently, Sonnenschein prepared the necessary documents required for its retention by the Debtors. Sonnenschein conducted a conflict search to ensure that it did not represent any adverse entities. Thereafter, Sonnenschein prepared the required court pleadings that ultimately resulted in this Court’s entry of its December 15, 2006, order approving Sonnenschein’s retention.

22. During the Retention Period, Sonnenschein familiarized itself with the Debtors’ disclosure statement and Plan to determine what impact, if any, confirmation of the Plan would have on the Cantor dispute and the Debtors’ interest in Cantor Index. Sonnenschein was in direct contact with the Debtors’ representatives concerning possible strategies to deal with Cantor in connection with the Debtors’ ownership interest in Cantor Index.

23. Moreover, in the event the parties were unable to reach a consensual resolution of their dispute, Sonnenschein prepared an application and proposed order to take an examination of Cantor Index pursuant to Fed. R. Bank. 2004 in connection with Refco Group’s interest in Cantor Index. Sonnenschein also prepared a subpoena and an extensive document request in connection with its proposed 2004 order.

24. Sonnenschein maintains written records of the time expended by attorneys and paraprofessionals in the rendition of their professional services to the Debtors. Such time records were made contemporaneously with the rendition of services by the person rendering such services and in the ordinary course of Sonnenschein's practice, and are presented in a form which is in compliance with the Local Rules for the Southern District of New York (the "Local Rules").

25. All of the time incurred by Sonnenschein was performed by Andrew P. Lederman. Mr. Lederman is of counsel to Sonnenschein and was admitted to the bar in 1985. Exhibit "B" hereto includes all daily time records of services performed during the Retention Period.

26. Sonnenschein respectfully submits that the professional services that it rendered on behalf of the Debtors at all times were necessary and have directly contributed to the effective administration of these cases.

#### **Allowance of Compensation**

27. The professional services rendered by Sonnenschein were performed efficiently, effectively and economically.

28. With respect to the level of compensation, 11 U.S.C. § 330(a)(1)(A) provides, in pertinent part, that the Court may award to a professional person: reasonable compensation for actual, necessary services rendered ...

Section 330(a)(3), 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;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) 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). The clear Congressional intent and policy expressed in this statute is to provide for adequate compensation in order to continue to attract qualified and competent bankruptcy practitioners to bankruptcy cases.

29. The total time spent by Sonnenschein professionals during the Retention Period was 18.20 hours.

30. As shown by this Application and supporting documents, Sonnenschein spent its time economically and without unnecessary duplication of time. Attached hereto as Exhibit "B" is a schedule of the hours expended by the Sonnenschein attorney during the Retention Period, his normal hourly rates, and the value of his services.

31. No agreement or understanding exists between Sonnenschein and any other person for the sharing of any compensation to be received for professional services rendered or to be rendered in connection with these cases.

32. No prior application has been made in this or in any other Court for the relief requested herein.

**Conclusion**

**WHEREFORE**, Sonnenschein respectfully requests that this Court enter an order:

- (a) approving the allowance of \$9,646.00 for compensation for professional services rendered to the Debtors during the Retention Period; and
- (b) granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
February 16, 2007

**SONNENSCH**~~HEIN~~ **NATH & ROSENTHAL LLP**

By: \_\_\_\_\_

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