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9 Las Vegas, NV 89101  
10 (702) 471-7432

11 Attorneys for the Official Noteholders' Committee

12 IN THE UNITED STATES BANKRUPTCY COURT  
13 DISTRICT OF NEVADA

14 In re: ) CASE NO. BK-S-97-20554-GWZ  
15 ) CASE NO. BK-S-97-20555-GWZ  
16 STRATOSPHERE CORPORATION, a )  
17 Delaware corporation, and STRATOSPHERE ) (Jointly Administered Under  
18 STRATOSPHERE GAMING CORPORATION, ) Case No. 97-20555-GWZ)  
19 a Nevada corporation, )  
20 ) CHAPTER 11  
21 Debtors and Debtors )  
22 in Possession. ) DATE: December 10, 1998  
23 ) TIME: 10:00 a.m.  
24 EIN Nos. 88-0292318 and ) SET BY: Sheila  
25 88-0320164, respectively. )  
26 )

27 **SEVENTH AND FINAL FEE APPLICATION OF SHEA & CARLYON, LTD.,**  
28 **COUNSEL FOR THE OFFICIAL UNSECURED CREDITORS' COMMITTEE**

29 The law firm of Shea & Carlyon, Ltd. ("Applicant"), hereby submits its Seventh and  
30 Final Application for Reimbursement of Fees and Expenses for the period from July 1,  
31 1998 through closing of the case. Applicant requests an award of \$13,148.54, consisting of  
32 fees in the amount of \$8,415.00 and reimbursement of expenses in the amount of  
33 \$1,233.54, incurred through November 9, 1998, and estimated supplemental fees and costs  
34 from November 10, 1998 through the date of the hearing not to exceed \$3,500.00.

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1 This Application is made pursuant to 11 U.S.C. § 330, and is based upon the Points  
 2 and Authorities and Exhibits attached, the Affidavit of Denise H. Abramow, Esq., filed  
 3 herewith as required by LR 7054(r)(2) (a copy of which is attached as Exhibit "1"), the  
 4 pleadings, papers and records on file in this action, and the evidence and oral argument to  
 5 be presented at the time of the hearing of the motion.

6 DATED this 10 day of November, 1998.

7 SHEA & CARLYON, LTD.

8  
 9 *Denise H. Abramow*  
 10 DENISE H. ABRAMOW, ESQ.  
 11 Nevada Bar No. 005851  
 12 233 South Fourth Street, Suite 200  
 13 Las Vegas, NV 89101

14 **BILLING SUMMARY**  
**SHEA & CARLYON, LTD.**

15 Total Fees Previously Requested	\$149,773.40	+ 8,415.00 = 158,188.40
Total Fees Previously Awarded	\$149,273.40	
16 Expenses Previously Requested	\$ 22,628.11	+ 1233.54 = 23,861.65
Expenses Previously Awarded	\$ 22,628.11	
17 Retainer Paid	\$ 0.00	+ 3500 at future fee
Total Awarded to Date	\$171,901.51	from 11/10/98 - 12/10/98
18 Total Paid to Date	\$171,901.51	

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 20 **PROFESSIONAL SERVICES**  
 21 **BILLED THIS APPLICATION**

158,188.40  
 - 3500

161,688.40

22 FEES		
23 TOTAL HOURS	TOTAL FEES	BLENDED RATE
45.1	\$8,415.00	\$186.59

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<b>BILLING RATES</b>		
Attorney	Hourly Rate	
James Patrick Shea	\$225.00	
Candace C. Carlyon	\$225.00	
Denise H. Abramow	\$175.00	
Ty E. Kehoe	\$165.00	
Paralegal	\$ 50.00 to \$100.00	
<b>EXPENSES</b>		
EXPENSE	RATE	TOTAL
Courier	\$7.50 per run or actual costs where outside messenger service required	\$ 60.00
Facsimile	\$1.00 per page long distance \$.50 per page local	\$ 54.50
Long Distance telephone		\$ 5.50
Photocopies	\$.25 per page	\$1,054.24
Postage		\$ 59.30
<b>TOTAL</b>		<b>\$1,233.54</b>

**POINTS AND AUTHORITIES**

**I.**

**Background**

On January 27, 1997, Stratosphere corporation, a Delaware corporation and Stratosphere Gaming Corporation, a Nevada corporation, (collectively, the "Debtor") filed petitions for reorganization under Chapter 11, Title 11, United States Code. Pursuant to order of the court dated January 29, 1997, these bankruptcy cases are being jointly administered. On February 6, 1997, pursuant to 11 U.S.C. §1102(a), the Office of the United States Trustee appointed the following holders of 14¼ First Mortgage Notes due 2002 with Contingent Interest as members of the Committee: (a) Cargill Financial Services Corporation; (b) Grace Brothers Limited; (c) ING Barings (U.S.) Capital

1 Corporation; (d) Farallon Capital Management, L.L.C.; and (e) IBJ Schroder Bank & Trust  
2 Company (“IBJ”)<sup>1</sup>.

3 On March 13, 1997, Applicant submitted its Ex Parte Application for Employment  
4 as Local Counsel for the Committee (the “Application”) to the bankruptcy court. By Order  
5 dated March 18, 1997, the bankruptcy court approved the Application and provided that  
6 Applicant’s employment was effective *nunc pro tunc* as of January 27, 1997. A copy of  
7 the Order Employing Shea & Carlyon, Ltd. as Local Counsel for the Committee is attached  
8 hereto as Exhibit “2”.

9  
10 On May 12, 1997, the court verbally approved the Debtors’ request to permit the  
11 filing of interim fee applications on a 60-day cycle. On May 27, 1997, Applicant filed  
12 its first interim fee application, which was approved by the court on June 19, 1997. On  
13 August 5, 1997, Applicant filed its second interim fee application, which was approved by  
14 the court on September 9, 1997 with a \$500 reduction in the fees requested. On November  
15 12, 1997, Applicant’s third interim fee application was approved by the court. On  
16 February 19, 1998, Applicant’s fourth interim fee application was approved by the court.  
17 On May 28, 1998, Applicant’s fifth interim fee application was approved by the court. On  
18 August 28, 1998, Applicant’s sixth interim fee application was approved by the court. This  
19 is Applicant’s seventh and final fee application in this matter.  
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26 <sup>1</sup> As of the confirmation hearing, Applicant was advised that the only members of the Committee who had  
not resigned were Grace Brothers and IBJ.

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**II.**

**Legal Basis For Award**

11 U.S.C. § 330 provides that, following notice and a hearing, the Court may award to any professional person employed under § 327 or 1103 of Title 11, United States Code:

(1) reasonable compensation for actual, necessary services rendered by the ...attorney and by any paraprofessional person employed by such...attorney based on the nature, the extent, and the value of such services, the time spent on such services, and the cost of comparable services other than in a case under this title; and (2) reimbursement of actual necessary expenses.

The Ninth Circuit recognizes that professionals in bankruptcy cases should be compensated at a rate commensurate to attorneys employed outside the bankruptcy context. See In re Manoa Finance Co., 853 F.2d 687 (9<sup>th</sup> Cir. 1988); In re Nucorp Energy, Inc., 764 F.2d 655 (9<sup>th</sup> Cir. 1985). As stated in the Manoa case, the Bankruptcy Reform Act of 1988 overruled those cases requiring professional compensation to be determined based upon notions of conservation of the estate and economy of administration. Otherwise, “attorneys that could earn much higher incomes in other fields would leave the bankruptcy arena.” Manoa, 853 F.2d at 689-90.

**III.**

**Scope Of Employment**

Applicant’s scope of employment as local counsel for the Committee, as provided in the Application, is to include general bankruptcy advice and representation of the Committee in all aspects of the pending Chapter 11 case, including acting as “local counsel” for the Committee, receiving and filing pleadings, reviewing pleadings for

1 compliance with local rules, providing advice regarding local rules and practice, and court  
2 appearances where the appearance of local counsel is deemed necessary.

3 **IV.**

4 **Services Rendered/Task Analysis**

5 During the time represented by this Application, Applicant (i) engaged in general  
6 case administration; (ii) reviewed various fee applications of professionals and attended the  
7 hearing on the sixth period fee applications; (iii) reviewed fee applications of Jones Day  
8 Law Firm for compliance with local rules; (iv) drafted orders on the fee applications and  
9 attended the hearing on such fee application, including the contested fee application of the  
10 Blackstone Group; (v) reviewed the objection to the Blackstone fee application and  
11 communicated with the Blackstone Group regarding the objection; (vi) contacted Debtor's  
12 counsel about the effective date of the Plan; (vii) reviewed litigation files in the Grand  
13 Casinos dispute; (viii) attended the hearing on several of the Debtors' objections to claims;  
14 (ix) prepared the final fee application; and (x) communicated with various counsel  
15 regarding case administration.  
16

17 The services rendered and approximate hour and dollar amounts for each "task" are  
18 discussed more extensively below. A chronological list of each service performed is  
19 attached hereto as Exhibit "3".  
20

21 A. Case Administration/General/Miscellaneous 5.1 Hours \$1,060.00

22 Time in this category includes communication with counsel regarding  
23 Imperial Capital; review of a compromise agreement with Casino Data Systems;  
24 communication with counsel regarding litigation trust issues; review of pleadings  
25 regarding a tax settlement; and review of notice of effective date.  
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B. Claims Administration and Objections 2.9 Hours \$652.50

Includes review of the order extending the bar date; review of Casino Data Systems settlement; review of various objections to claims by the Debtors and attendance at the hearing on the Debtors' objection to claim of Trane Kellogg.

C. Fee/Employment Applications 28.5 Hours \$4,865.00

This category includes fees relating to communications with Committee counsel, Debtors' counsel and the U.S. Trustee's office regarding sixth period fee applications and orders, review of the sixth period fee applications of the Jones Day Law Firm, McGroarty & Lane; Blackstone Group; Arthur Andersen; Schreck Morris; Verner Liipfert; Society General; Gordon & Silver; Mayer Brown & Platt; and Economic Research Associates. Applicant also prepared certificates of mailing and communicated with counsel for the Debtor regarding notice of the hearing.

Also included in this category are fees relating to the (i) drafting, filing and serving of the sixth interim fee application of Shea & Carlyon; (ii) preparation of and lodging of orders regarding the sixth period fee applications of Shea & Carlyon, Jones Day, and Bryan Cave; (iii) correspondence to Debtor and Debtor's counsel regarding payment; and (iv) preparation of the notices of entry of order for sixth period fee applications. Applicant's fees were approved without reduction.

Additional time was spent in the preparation of the present final fee application, including the affidavit in support thereof; compilation of supporting exhibits, and completion of the task analysis, including the summary of the major services performed throughout the case.

1 D. Fee/Employment Objections 6.2 Hours \$1,297.50

2 Applicant reviewed the Debtor's objection to the Blackstone Group's fee  
3 application; communicated with Debtor's counsel regarding the service of the  
4 objection on Blackstone; prepared for and attended the hearing on the sixth period  
5 fee applications, and communicated with the Blackstone Group relating to  
6 preparing the order on its fee application.

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8 E. Plan and Disclosure Statement/Exclusivity Issues .3 Hours \$67.50

9 Applicant communicated with Debtor's counsel as to the effective date of  
10 the Plan.

11 F. Litigation/Shareholders' Claims 2.1 Hours \$472.50

12 Applicant reviewed the litigation files and pleadings and communicated  
13 with counsel regarding litigation status of Grand Casinos.

14 **TOTALS: 45.1 HOURS; \$8,415.00 ("blended" rate: \$186.59)**

15 V.  
16 **Expenses Incurred**

17 Exhibit "4" contains a list of expenses, which total \$1,233.54. Applicant bills for  
18 expenses, including photocopies (\$.25 per page); telefax transmissions (\$1.00 per page  
19 long distance; \$.50 per page local); messenger service (\$7.50 per "run" or actual cost  
20 where outside messenger service is required on an emergency or out of area basis);  
21 postage, long distance, computerized legal research (estimated actual cost), and third party  
22 expenses (including court reporter fees, costs of tapes and transcripts, and outside copying  
23 services).  
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1 VI.

2 Nature and Difficulty of the Case, Results Obtained

3 Debtors are the owners and operators of the Stratosphere Hotel and Casino.  
4 Applicant's constituency is owed approximately \$203,000,000 in principal amount. Based  
5 upon the Debtors' financial condition and performance, it appears that the Noteholders and  
6 a secured creditor group (the Capital Lease Bank Group) are the only constituency with a  
7 significant economic interest in the reorganization. During the current application period,  
8 Applicant engaged in miscellaneous case administration, in claims litigation and in the  
9 litigation of fee applications. As the court is aware, the case was successfully concluded  
10 with the confirmation of a consensual plan of reorganization on May 15, 1998, which  
11 become effective on or about October 10, 1998.

13 VII.

14 Retainer/Prior Awards

15 Applicant received no retainer from the Committee. On June 19, 1997, the court  
16 approved Applicant's first interim fee application and awarded Applicant the sum of  
17 \$14,686.34. By order entered on October 15, 1997, the court approved Applicant's second  
18 interim fee application and awarded Applicant the sum of \$32,875.48. By order entered on  
19 November 12, 1997, the court approved Applicant's third interim fee application and  
20 awarded Applicant the sum of \$27,331.14. By order entered on February 19, 1998, the  
21 court approved Applicant's fourth interim fee application and awarded Applicant the sum  
22 of \$56,159.80. By order entered on May 28, 1998, the court approved Applicant's fifth  
23 interim fee application and awarded Applicant the sum of \$28,142.07. By order entered on  
24 September 2, 1998, the court approved Applicant's sixth interim fee application and  
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1 awarded Applicant the sum of \$12,706.68. To date, Applicant has received payment of the  
2 amounts awarded on its first, second, third, fourth, fifth and sixth interim applications, in  
3 the total amount of \$171,901.51.

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5 **VIII.**

6 **Qualifications of Applicant**

7 Applicant's resume is attached hereto as Exhibit "5". As reflected therein, the  
8 principals of Applicant have extensive legal experience, concentrating in Chapter 11  
9 bankruptcy representation, including representation of debtors, secured creditors,  
10 committees, and other interested parties in a variety of cases, including numerous casino  
11 reorganizations.

12 **IX.**

13 **Available Funds**

14 Based upon the financial information provided by the Debtor to date, the Debtor  
15 has sufficient cash on hand to pay the Application in full immediately upon approval.

16 **X.**

17 **Conclusion**

18 Based on the foregoing, it is respectfully requested that the court approve the  
19 Application, and award Applicant the sum of \$13,148.54, consisting of fees in the amount  
20 of \$8,415.00, reimbursement of costs in the amount of \$1,233.54, plus estimated  
21 supplemental fees and expenses from November 10, 1998 through the date of the hearing  
22 in the amount of \$3,500.00. In addition, it is respectfully requested that the court enter an  
23 order granting final approval of the prior awards to Applicant on its First, Second, Third,  
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Fourth, Fifth and Sixth Interim Applications for Reimbursement of Fees and Expenses and incorporating those awards into the final order.

DATED this 10 day of November, 1998.

SHEA & CARLYON, LTD.

  
DENISE H. ABRAMOW, ESQ.

Nevada Bar No. 005851  
233 South Fourth Street, Suite 200  
Las Vegas, Nevada 89101  
Attorneys for Official Noteholders' Committee