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

In re:	)	In Proceedings Under Chapter 11
STRATOSPHERE CORPORATION,	)	Case No. BK-S-97-20554 GWZ
a Delaware corporation,	)	
	)	
Debtor.	)	(Jointly Administered)
	)	(This pleading relates to all cases)
_____	)	
In re:	)	
	)	
STRATOSPHERE GAMING CORP.,	)	
a Nevada corporation,	)	
	)	Case No. BK-S-97-20555 GWZ
	)	
Debtors.	)	DATE: <u>December 10, 1998</u>
_____	)	TIME: <u>10:00 a.m.</u>

19 **FINAL FEE APPLICATION OF**  
20 **VERNER, LIIPFERT, BERNARD, McPHERSON AND HAND, CHARTERED,**  
21 **SEEKING COMPENSATION FOR LEGAL SERVICES RENDERED**  
22 **AND REIMBURSEMENT OF EXPENSES**

23 This final application for allowance of compensation (the "Final Application") is filed by  
24 VERNER, LIIPFERT, BERNARD, McPHERSON and HAND, CHARTERED ("VLBM&H"),  
25 (which is known in Nevada as GARY C. MOSS, COUNSELOR AT LAW), **special labor and**  
26 **employment counsel for Stratosphere Corporation,** a Delaware corporation, and Stratosphere  
27 Gaming Corp., a Nevada corporation, debtors and debtors-in-possession ("Debtors"), in the  
28 above-captioned Chapter 11 case. Pursuant to this Final Application, VLBM&H respectfully

1 requests that the Court enter an Order:

2 (a) For the period from July 1, 1998 through October 14, 1998 ("Application  
3 Period"), allowing VLBM&H professional compensation in the amount of \$31,323.25 and  
4 reimbursement of actual and necessary expenses in the amount of \$2,670.56;

5 (b) Authorizing the Debtors to pay to VLBM&H all unpaid fees and expenses  
6 allowed by the Court;

7 (c) Determining that the total amount of professional fees charged by VLBM&H to  
8 the Debtors during the Final Application Period are reasonable within the meaning of 11 U.S.C.  
9 § 330(a); and

10 (d) Determining that the total amount of reimbursable expenses incurred by  
11 VLBM&H during the Final Application Period are actual and necessary within the meaning of  
12 11 U.S.C. § 330(a).  
13  
14

15 This Final Application is supported by the attached points and authorities and the  
16 exhibits to the Final Application, which contain descriptions and analysis of the professional  
17 services rendered and the expenses incurred by VLBM&H.

18 Dated this 10th day of November, 1998.

19  
20 VERNER, LIIPFERT, BERNARD,  
21 McPHERSON and HAND, CHARTERED

22  
23 By: 

24 Gary C. Moss, Esq.  
25 Nevada Bar No. 04340  
26 3930 Howard Hughes Parkway  
27 Suite 170  
28 Las Vegas, Nevada 89109  
(702) 737-3433  
Attorneys for Debtors

VERNER, LIIPFERT, BERNARD, McPHERSON and HAND CHARTERED  
BILLING SUMMARY

1		
2	Fees Previously Requested	\$31,730.00
3	Fees Previously Awarded	\$31,730.00
4	Expenses Previously Requested	\$ 1,626.81
5	Expenses Previously Awarded	\$ 1,626.81
6	Retainer Paid	\$-0-
	Drawn on Retainer	\$-0-
7	Remaining on Retainer	\$-0-

**PROFESSIONAL SERVICES**

10	NAMES OF PROFESSIONALS	Hours Billed/ Current Application	Rate	Total for Application
11				
12	Gary C. Moss	90.70	\$250.00	\$22,675.00
	Frank M. Gregory	13.05	\$175.00	\$ 2,283.75
13	Ann B. Stevens	30.10	\$130.00	\$ 3,913.00
	Celeste Wasielewski	4.30	\$210.00	\$ 903.00
14	Kiki Okeke	16.30	\$ 95.00	\$ 1,548.50
15				
16	<i>Total</i>	154.45		\$31,323.25 ✓

**EXPENSES**

18	Expense		
19	<i>Total</i>		\$ 2,670.56 ✓

*Total*

*Fee \$ 63,053.25*

*Exp \$ 4,297.37*

## POINTS AND AUTHORITIES

### I. GENERAL BACKGROUND

1  
2  
3       1.       On January 27, 1997 (the "Petition Date"), the Debtors filed their voluntary  
4 Chapter 11 petitions, thereby commencing their Chapter 11 case. Debtors own and operate a  
5 casino/hotel and related facilities in Las Vegas, Nevada ("Casino/Hotel").

6               2.       Debtors are in possession of and continue to operate and manage the  
7 Casino/Hotel as debtors-in-possession in accordance with Sections 1107 and 1108 of the United  
8 States Bankruptcy Code.

9               3.       On October 16, 1997, the Debtors filed an ex parte application to employ  
10 Pantaleo, Lipkin & Moss ("PL&M") as special labor and employment counsel. Pursuant to their  
11 application, the Court subsequently entered an Order authorizing the employment of PL&M as  
12 special labor and employment counsel.  
13

14               4.       On May 1, 1998, PL&M merged its practice with VLBM&H and assigned all of  
15 PL&M's outstanding fees and expenses to VLBM&H.  
16

17               5.       On June 9, 1998, this Court entered an order confirming the Restated Second  
18 Amended Plan of Reorganization which became effective as of October 14, 1998.

19               6.       This is the final fee application for allowance of interim compensation and  
20 reimbursement of expenses filed by the firms in the above-captioned case. VLBM&H does not  
21 hold a retainer account.  
22

23               7.       Pursuant to this Final Application, VLBM&H requests allowance of  
24 compensation of \$31,323.25, and reimbursement of expenses of \$2,670.56 in connection with  
25 services provided during the Application Period. VLBM&H has not received payments for  
26 these professional fees and expenses incurred during the Application Period.  
27

28               VLBM&H's Final Application is a "core proceeding" which the Court has jurisdiction to

1 decide pursuant to 28 U.S.C. §§ 157(1), (b), and 1334. The statutory authority for the relief  
2 requested by VLBM&H is 11 U.S.C. § 330. This Final Application has been filed in accordance  
3 with Federal Bankruptcy Rule 2016 and the Guidelines of the Office of the United States  
4 Trustee for the District of Nevada.

5 **II. CASE STATUS**

6 VLBM&H hereby adopts the case status as set out in the Sixth Application of Gordon  
7 and Silver, Ltd., general bankruptcy counsel for the Stratosphere, filed with this Court on or  
8 about August 3, 1998.

10 **III. TASKS PERFORMED BY PL&M AND VLBM&H DURING THE**  
11 **APPLICATION PERIOD**

12 The Application Period encompassed by this Application runs from July 1, 1998 through  
13 October 14, 1998. During the Application Period, VLBM&H performed services to the  
14 debtors-in-possession relating to certain labor and employment law matters, as follows:

15 Representation of Stratosphere in collective bargaining negotiations with the Local Joint  
16 Executive Board of Las Vegas, Culinary Workers Union Local 226 and Bartenders Union Local  
17 165;

19 Representation of Stratosphere in collective bargaining negotiations with Operating  
20 Engineers Local 501;

21 Representation of Stratosphere in collective bargaining negotiations with Teamster Local  
22 995;

24 Representation of Stratosphere in connection with Culinary Workers Union Local 226,  
25 including: a detailed factual investigation, preliminary discussions with representatives of the  
26 Union, preparation for the hearing, the presentation and examination of witnesses at the hearing,  
27 and preparation of the post-hearing brief in connection with the Alana Brooks arbitration matter;

28

1 Advice to Stratosphere management regarding certain other grievances filed by Culinary  
2 Workers Union Local 226 and Bartenders Union Local 165 alleging violations of their collective  
3 bargaining agreement with Stratosphere; and

4 Advice concerning miscellaneous labor and employment law matters.

5 **IV. CONTENTS OF THE ATTACHED SUPPORTING DOCUMENTS**

6 Exhibit "A" attached to this Application identifies and provides chronologically  
7 throughout the Application Period: (a) the dates on which VLBM&H performed professional  
8 services for the Debtors; (b) each person performing such services; (c) the amount of time spent  
9 by each person on each day that the person performed such services (charged in units of one-  
10 tenth [0.1] of an hour); (d) specific daily descriptions of the services performed by each person;  
11 and (e) necessary out-of-pocket expenses incurred and paid by VLBM&H during the  
12 Application Period in their representation of the Debtors.  
13

14  
15 **V. STANDARDS RELEVANT TO INTERIM PROFESSIONAL COMPENSATION  
AND EXPENSE REIMBURSEMENT**

16 1. The fees billed by VLBM&H to the Debtors for professional services rendered  
17 during the Application Period total \$31,323.25. This amount was calculated (as required by  
18 Bankruptcy Code Section 330) in accordance with the standards used to calculate what would  
19 be charged for comparable services in a non-bankruptcy situation.  
20

21 2. The pertinent factors to be considered in establishing fees for legal services  
22 rendered are: (a) the time and labor required, the novelty and difficulty of the questions  
23 involved, and the skill required to perform the legal services properly; (b) the likelihood that the  
24 acceptance of the particular employment will preclude other employment by the lawyer; (c) the  
25 fee customarily charged for similar services; (d) the amount involved and the results obtained;  
26 (e) the time constraints required by the exigencies of the case, including the frequency and  
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1 amount of time required to be devoted other than in regular business hours; (f) the nature and  
2 length of the professional relationship with the client; (g) the experience, reputation, and ability  
3 of the lawyers performing the services; and (h) whether the fee is fixed or contingent. *In re First*  
4 *Colonial Corp. of America*, 544 F.2d 1291 (5<sup>th</sup> Cir. 1977), *cert. denied*, 431 U.S. 904 (1977);  
5 American Bar Association's Code of Professional Responsibility, Disciplinary Rule 2-106.

6  
7 3. VLBM&H submits that the requested professional compensation during the  
8 Application Period is fair and reasonable under the circumstances of this case and the  
9 representation of the Debtors therein.

10 4. VLBM&H also incurred and paid out-of-pocket expenses totaling \$2,670.56  
11 during the Application Period. The items for which expense reimbursement are being sought are  
12 not (and were not) included in VLBM&H's overhead, and are not, therefore, a part of the  
13 hourly rates charged by VLBM&H.

14  
15 5. VLBM&H submits that the expenses which it has incurred and paid in rendering  
16 legal services to the Debtors during the Application Period are reasonable and necessary under  
17 the circumstances of this case and that the reimbursement to VLBM&H for such expenses is  
18 appropriate and should be allowed.

19 **VI. COMPLIANCE WITH SECTION 504 OF THE BANKRUPTCY CODE AND**  
20 **BANKRUPTCY RULE 2016**

21 VLBM&H has not entered into any arrangement or agreement with any person or entity  
22 with respect to the sharing of fees and expenses for which VLBM&H is seeking compensation  
23  
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1 and reimbursement as set forth in this Final Application, except as permitted by Bankruptcy  
2 Code Section 504(b)(1).

3 **VII. CONCLUSION**

4 WHEREFORE, VLBM&H respectfully requests that the Court enter an Order:

5 A. For the period from July 1, 1998 through October 14, 1998, allowing VLBM&H  
6 professional compensation in the amount of \$31,323.25 and reimbursement of actual and  
7 necessary expenses in the amount of \$2,670.56;

8  
9 B. Determining that the total amount of professional fees charged by VLBM&H to  
10 the Debtors during the Final Application Period are reasonable within the meaning of 11 U.S.C.  
11 § 330(a) and determining that the total amount of reimbursable expenses incurred by VLBM&H  
12 during the Final Application Period is actual and necessary within the meaning of 11 U.S.C. §  
13 330(a);

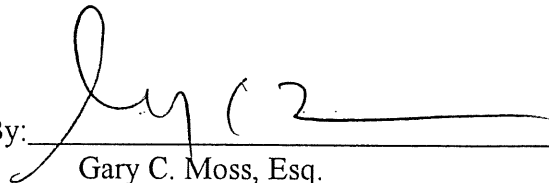
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15 C. Authorizing the Debtors to pay the balance to VLBM&H of all unpaid fees and  
16 expenses as allowed by the Court; and

17 D. Granting such other and further relief as the Court deems just and appropriate.

18 Dated this 10th day of November, 1998.

19  
20 Respectfully submitted,

21 VERNER, LIIPFERT, BERNARD  
22 McPHERSON and HAND, CHARTERED

23  
24 By: 

25 Gary C. Moss, Esq.  
26 Nevada Bar No. 04340  
27 3930 Howard Hughes Parkway  
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