

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11 Cases Nos.  
: :  
AI REALTY MARKETING OF NEW YORK, : 01-40252 (AJG) through  
INC., LASER ACQUISITION CORP., DDG I, : 01-40290 (AJG)  
INC., SUNBEAM AMERICAS HOLDINGS, LTD.:  
et al. :  
: (Jointly Administered)  
Debtors. :  
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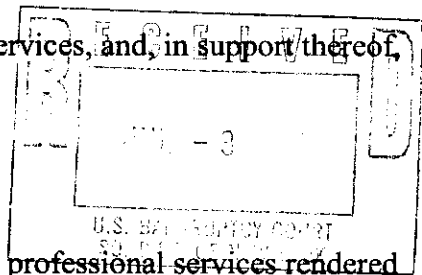
FIRST APPLICATION OF MORRISON & HECKER L.L.P.,  
ATTORNEYS FOR DEBTORS, FOR ALLOWANCE OF INTERIM  
COMPENSATION FOR SERVICES RENDERED FROM APRIL 1, 2001 THROUGH  
APRIL 30, 2001 AND FOR REIMBURSEMENT OF EXPENSES

TO THE HONORABLE ARTHUR J. GONZALEZ  
UNITED STATES BANKRUPTCY JUDGE:

Morrison & Hecker L.L.P. (M&H), attorneys for the Debtors submits this first application (the "Application"), pursuant to sections 330(a) and 331 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for the allowance of interim compensation for professional services rendered from April 1, 2001 through April 30, 2001 (the "Compensation Period"), and for reimbursement of expenses incurred in connection with such services, and, in support thereof, respectfully represents:

**Summary of Application**

1. M&H seeks allowance of interim compensation for professional services rendered to the Debtors during the period from April 1, 2001 through April 30, 2001 (the Compensation Period), in the aggregate amount of \$28,952.50, and for reimbursement of expenses incurred in connection with the rendition of such services in the aggregate amount of \$1,263.79.



2. M&H has represented Debtors in litigation matters related to products manufactured by Debtors. Specifically, M&H serves as National Trial Counsel for some of Debtors' domestic operating subsidiaries and defends product liability actions brought against those entities. The services represented by the fees sought by this application have been preformed by Litigation Section attorneys at M&H. The majority of fees to which this application pertains have been generated due to litigation and appellate activities in cases for which this Court has lifted the Section 362 stays and permitted these cases to proceed.

3. M&H has previously submitted monthly fee statements (each a "Fee Statement," and, collectively, the "Fee Statements") to the Debtors, The United States Trustee for the Southern District of New York, counsel for the Debtors Weil, Gotshal & Manges, LLP, Sunbeam Corporation, and counsel for the pre-petition and post-petition lenders Wachtell, Lipton, Rosen & Katz and Simpson, Thacher & Bartlett in accordance with the Administrative Order. On May 15, 2001, M&H submitted a Fee Statement for the period from and including April 1, 2001 through April 30, 2001. For the period of April 1, 2001 through April 30, 2001, M&H provided services in the amount of \$28,952.50 for attorneys' fees, less a 20% hold back of \$5,790.50 for a total of \$23,162.00 and disbursements in the amount of \$1,263.79. The amount payable pursuant to the Court Order dated February 27, 2001 is \$24,425.79. Pursuant to the Administrative Order, unless an objection is served, the Debtors will pay 80% of the fees for services performed and 100% of the disbursements to M&H.

4. This Application has been prepared in accordance with the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on April 19, 1985 (the "Local Guidelines"), the United States Trustee - Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed

Under 11 U.S.C. § 330 adopted on January 30, 1996 (the “UST Guidelines” and, collectively with the Local Guidelines, the “Guidelines”), and this Court’s Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, dated November 12, 1999 (the “Administrative Order”). Pursuant to the Local Guidelines, a certification regarding compliance with same is attached hereto as Exhibit A.

5. By this Application, M&H seeks the court’s confirmation of all prior amounts paid to M&H pursuant to the Administrative Order, as well as the allowance of the remainder of the fees and disbursement requested.

6. During the compensation Period, M&H attorneys and paraprofessionals expended a total of 204.3 hours for which compensation is requested. A schedule setting forth the number of hours expended by each of the partners, associates and paraprofessionals of M&H who rendered services to the Debtors and their respective hourly rates and the year of bar admission for each M&H attorney is attached hereto as Exhibit B. A schedule specifying the categories of expenses for which M&H is seeking reimbursement and the total amount for each such expense category is attached hereto as Exhibit C.

7. M&H maintains computerized records of the time spent by all M&H attorneys and paraprofessionals in connection with its representation of the Debtors during the pendency of the Debtors’ Chapter 11 cases. Subject to redaction for the attorney-client privilege where necessary to protect the Debtors and the Debtors’ estates, copies of these computerized records were previously furnished in the form of the monthly fee statement to the Court, The United States Trustee for the Southern District of New York, counsel for the Debtors Weil, Gotshal & Manges, LLP, Sunbeam Corporation, and counsel for the pre-petition and post-petition lenders

Wachtell, Lipton, Rosen & Katz and Simpson, Thacher & Bartlett, in the format specified by the UST Guidelines.

8. While it believes that all applicable time and disbursement charges have been included herein, to the extent that time or disbursement charges for services rendered or disbursements incurred relate to the Compensation Period, but were not processed prior to the preparation of this Application, M&H reserves the right to request additional compensation for such services and reimbursement of such expenses in a future application.

### **Background**

9. On February 5, 2001 (the "Filing Date"), the Debtors filed a Chapter 11 voluntary bankruptcy petition.

10. On or about February 6, 2001 this Court entered the Order Pursuant to Sections 327 and 328 of the Bankruptcy Code Authorizing Employment of Professionals Utilized in the Ordinary Course of Business.

11. On or about March 12, 2001, Kenneth R. Lang, a partner of M&H, filed his affidavit under 11 U.S.C. § 327(e) consenting on behalf of M&H to provide legal services to Debtors.

### **Jurisdiction and Venue**

12. The Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 1334, and the Standing Order of Referral of Cases to Bankruptcy Court Judges of the District Court for the Southern District of New York, dated July 10, 1984 (Ward, Acting C.J.). Consideration of the Application is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Retention and Compensation of M&H**

13. Pursuant to order of the Court dated February 6, 2001, the Court approved M&H's retention as counsel for Debtors to render legal services. A true and complete copy of the Retention Order is attached hereto as Exhibit D. As set forth more fully in the Debtor's application to employ M&H at the outset of these cases, M&H, possesses expertise in various specialized areas of the law including product liability defense and litigation.

14. This is M&H's first application for allowance of interim compensation for services rendered and for reimbursement of expenses. As noted above pursuant to the Fee Statements and the Administrative Order, M&H has received an aggregate of \$25,000.00 in respect of services rendered during these Chapter 11 cases, and will be receiving further payment shortly after the filing of this Application.

### **Services Rendered by M&H During the Compensation Period**

15. M&H does not wish to burden this Court with an overly detailed or lengthy recitation of each and every matter with respect to which it has rendered services to the Debtors. Further, some of the services performed were in connection with matters that are confidential in nature and not a matter of public record. Accordingly, the following is intended to serve only as a summary description of the primary services rendered by M&H during the Compensation Period on behalf of the Debtors:

16. In addition to the above, a large portion of the services rendered in the time period from April 1, 2001 through April 30, 2001, involved the continuance briefing an appeal in a case in which the Section 362 stay had been lifted. Another portion of the services rendered were in connection with the investigation of an incident in which a client's product was found at the scene. Our work included interviewing law enforcement personnel and others at the scene,

obtaining the records of law enforcement and medical personnel, and obtaining experts for consultation.

### **Disbursements**

17. As set forth in Exhibit C hereto, M&H has disbursed \$1,263.79 as expenses incurred in providing professional services during the Compensation Period. With respect to photocopying expenses, M&H charges all of its clients \$0.20 per page. With respect to facsimile expenses, in compliance with the Guidelines, M&H does not charge for facsimile transmissions, other than the cost of long distance facsimiles at applicable toll charge rates. Each of these categories of expenses does not exceed the maximum rate set by the Guidelines. These charges are intended to cover M&H's direct operating costs, which costs are not incorporated into the M&H hourly billing rates. Only clients who actually use services of the types set forth in Exhibit C are separately charged for such service. The effect of including such expenses as part of the hourly billing rates would impose that cost upon clients who do not require extensive photocopying and other facilities and services. The amount of the standard photocopying charge is intended to allow M&H to cover the related expenses of its photocopying service. A determination of the actual expense per page for photocopying, however, is dependent on both the volume of copies and the total expenses attributable to photocopying on an annual basis.

18. In addition, due to the national nature of the Debtors' business, frequent long distance telephone calls have been required. On several occasions, overnight delivery of documents and other materials was required as a result of urgent needs necessitating the use of such express services. These disbursements were not included in M&H's overhead for the purpose of setting billing rates. M&H has made every effort to minimize its disbursements in this case. The actual expenses incurred in providing professional services were necessary,

reasonable, and justified under the circumstances to service the needs of the Debtors in fulfilling their statutory obligations.

**The Requested Compensation Should Be Allowed**

19. Section 331 of the Bankruptcy Code provides for interim compensation of professionals and incorporates the substantive standards of section 330 to govern the Court's award of such compensation. 11 U.S.C. § 331. Section 330 provides that a court may award a professional employed by the Debtors under section 1103 of the Bankruptcy Code "reasonable compensation for actual necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 339(a)(1). Section 330 also sets forth the criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded, the court should consider the nature, 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).

20. In the instant case, M&H respectfully submits that the services for which it seeks compensation in this Application were necessary for and beneficial to the Debtors at the time at

which such services were rendered. These services were performed without duplication of effort or expense incurred by professionals and paraprofessionals employed by M&H. M&H submits that its request for compensation for the foregoing services is reflective of a reasonable and appropriate amount of time expended in performing such services commensurate with the complexity, importance and nature of the problem, issue, or task involved.

21. In sum, the services rendered by M&H were necessary and beneficial to the Debtors and were consistently performed in a timely manner commensurate with the complexity, importance, and nature of the issues involved, and approval of the compensation sought herein is warranted.

#### **Statements of M&H**

22. As set forth in the certification of Kenneth R. Lang annexed hereto as Exhibit A, the compensation requested by M&H is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code.

23. No agreement or understanding exists between M&H and any other person for a sharing of compensation received or to be received for services rendered in or in connection with these Chapter 11 cases, nor shall M&H share or agree to share the compensation paid or allowed from the Debtors' estates for such services with any other person. The foregoing constitutes the statement of M&H pursuant to section 504 of the Bankruptcy Code and Bankruptcy Rule 2016(a).

24. No agreement or understanding prohibited by 18 U.S.C. § 155 has been or will be made by M&H.



25. A copy of this Application has previously been provided to Steven R. Isko of the Sunbeam Corporation, the Debtor in Possession. He has reviewed this Application and approved it.

**Waiver of Memorandum of Law**

26. Pursuant to Local Bankruptcy Rule for the Southern District of New York 9013-1(b) because there are no novel issues of law presented by this Application, M&H respectfully requests that the Court waive the requirement that M&H file a memorandum of law in support of this Application.

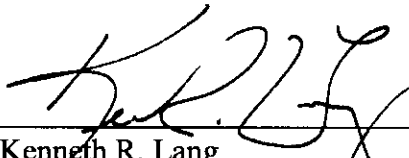
**Notice**

27. Pursuant to the Administrative Order, copies of this Application have been given to the Debtors, The United States Trustee for the Southern District of New York, counsel for the Debtors Weil, Gotshal & Manges, LLP, Sunbeam Corporation, and counsel for the pre-petition and post-petition lenders Wachtell, Lipton, Rosen & Katz and Simpson, Thacher & Bartlett. Pursuant to paragraph 4 of the Administrative Order, a notice of the hearing, when set by the Court, to consider this and other professionals', if any, first applications for interim compensation will be served on the United States Trustee, counsel to the Debtors, counsel to the Agent, and all parties who have filed a notice of appearance with the Clerk of the Court and requested such notice. M&H submits that this is good and sufficient notice and no other or further notice is necessary.

**WHEREFORE**, M&H respectfully requests (i) an interim allowance of compensation for professional services rendered as attorneys for the Debtors in the amount of \$28,952.50 in fees for the period of April 1, 2001 through April 30, 2001, (ii) reimbursement of actual and

necessary disbursements incurred by M&H in the amount of \$1,263.79, and (iii) such other and further relief as is just.

Dated: Wichita, Kansas  
July 2, 2001



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Kenneth R. Lang  
MORRISON & HECKER L.L.P.  
600 Commerce Center  
150 N. Main  
Wichita, Kansas 67202-1320  
(316) 265-8800

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In re: : Chapter 11 Cases Nos.  
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AI REALTY MARKETING OF NEW YORK, : 01-40252 (AJG) through  
INC., LASER ACQUISITION CORP., DDG I, : 01-40290 (AJG)  
INC., SUNBEAM AMERICAS HOLDINGS, LTD. :  
et al. :  
: (Jointly Administered)  
Debtors. :  
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CERTIFICATION UNDER GUIDELINES FOR FEES  
AND DISBURSEMENTS FOR PROFESSIONALS  
IN RESPECT OF FIRST APPLICATION OF  
MORRISON & HECKER L.L.P. FOR INTERIM  
COMPENSATION AND REIMBURSEMENT OF EXPENSES

I, Kenneth R. Lang, hereby certify that:

1. I am an attorney at law and the professional designated by the applicant, Morrison & Hecker L.L.P. ("M&H") with responsibility for the Debtors in respect of compliance with the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on April 19, 1995 (the "Local Guidelines") and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted on January 30, 1996 (the "UST Guidelines").

2. This certification is made in respect of M&H's first application dated July 2, 2001 (the "Application"), for interim compensation and reimbursement of expenses for the period commencing April 1, 2001 through April 30, 2001 (the "Compensation Period") in accordance with the Local Guidelines.

3. In respect of section B.1 of the Local Guidelines, I certify that:

(a) I have read the Application;

- (b) to the best of my knowledge, information, and belief formed after reasonable inquiry, the fees and disbursements sought fall within the Local Guidelines;
- (c) the fees and disbursements sought are billed at rates in accordance with practices customarily employed by M&H and generally accepted by M&H's clients; and
- (d) in providing a reimbursable service, M&H does not make a profit on that service, whether the service is performed by M&H in-house or through a third party.

4. In respect of section B.2 of the Local Guidelines, I certify that:

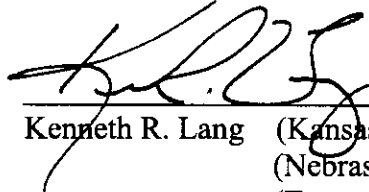
- (a) The United States Trustee, the Debtors, counsel for the Debtors Weil, Gotshal & Manges, LLP, Sunbeam Corporation, and counsel for the pre-petition and post-petition lenders Wachtell, Lipton, Rosen & Katz and Simpson, Thacher & Bartlett have each been provided on a monthly basis with a statement of M&H's fees and disbursements accrued during the previous month; and
- (b) the statement contained lists of professionals and paraprofessionals providing services, their respective billing rates, the aggregate hours spent by each professional and paraprofessional, a general description of the services rendered, a reasonably detailed breakdown of the disbursements incurred, and an explanation of billing practices.

5. In respect of section B.3 of the Local Guidelines, I certify that the United States Trustee, the Debtors, counsel for the Debtors Weil, Gotshal & Manges, LLP, Sunbeam

Corporation, and counsel for the pre-petition and post-petition lenders Wachtell, Lipton, Rosen & Katz and Simpson, Thacher & Bartlett are each being provided with a copy of the Application in accordance with the Court's Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, dated November 12, 1999.

6. By this certification, M&H does not waive or release any rights or entitlements it has under the order of this Court, dated February 6, 2001, approving, under sections 327 and 328 of the Bankruptcy Code, M&H's retention as counsel to the Debtors pursuant to M&H's normal billing rates and customary reimbursement and disbursement practices.

Dated: Wichita, Kansas  
July 2, 2001



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Kenneth R. Lang (Kansas Bar #13060)  
(Nebraska Bar #15280)  
(Texas Bar #11895980)

MORRISON & HECKER L.L.P.  
600 Commerce Bank Center  
150 N. Main  
Wichita, Kansas 67202-1320  
(316) 265-8800

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EXHIBIT B

April 1, 2001 through April 30, 2001

Partners

<u>Timekeeper</u>	<u>Admitted</u>	<u>Department</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Total Amount</u>
Lang, Ken	1977	Litigation	\$115.00	13.3	\$1,529.50
			\$160.00	24.5	\$3,920.00
			\$175.00	10.3	\$1,802.50
			\$203.51	30.7	\$6,247.77
			\$205.00	3.6	\$738.00
Bengtson, David	1984	Litigation	\$148.55	0.2	\$29.71
			\$150.00	4.4	\$660.00
			\$165.00	6.0	\$990.00
Preheim, Lynn	1987	Litigation	\$165.00	3.3	\$544.50
Flesher, Matt	1990	Litigation	\$135.00	59.1	\$7,978.50
Total Partner Hours				155.4	\$24,440.48

EXHIBIT B

April 1, 2001 through April 30, 2001

Associates

<u>Timekeeper</u>	<u>Admitted</u>	<u>Department</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Total Amount</u>
Decker, Amy	1998	Litigation	\$90.00	0.3	\$27.00
			\$99.27	2.3	\$228.33
			\$109.00	0.6	\$65.40
			\$110.00	26.9	\$2,959.00
Total Associate Hours				30.1	\$3,279.73

EXHIBIT B

April 1, 2001 through April 30, 2001

Legal Assistants and Others

<u>Timekeeper</u>	<u>Admitted</u>	<u>Department</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Total Amount</u>
Fortner, Karen		Litigation	\$55.00	5.4	\$297.00
			\$64.45	0.2	\$12.89
			\$65.00	5.4	\$351.00
			\$69.49	5.1	\$354.40
			\$70.00	3.0	\$210.00
Baldwin, Amy		Litigation	\$35.00	0.2	\$7.00
Total Other Hours				19.3	\$1,232.29



EXHIBIT C

April 1, 2001 through April 30, 2001

Total for All Timekeepers

Timekeepers	Total Hours	Total Amount
Total Partner Charges	155.6	\$24,440.48
Total Associate Charges	30.1	3,279.73
Total Legal Assistant and Others Charges	18.6	1,232.29
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TOTAL DUE		28,952.50

EXHIBIT C

April 1, 2001 through April 30, 2001

Disbursements

Travel	\$393.26
Outside Copy Service	\$158.61
Copying	\$138.30
Long Distance	\$56.95
Mileage	\$15.60
Federal Express	\$476.60
Postage	\$16.66
Medical Records	\$2.75
Phone Charges	\$1.56
Facsimile	\$3.50
<b>TOTAL</b>	<b>\$1,263.79</b>

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT D

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	X	
	:	
<b>In re</b>	:	<b>Chapter 11 Cases Nos.</b>
	:	
<b>AI REALTY MARKETING OF NEW YORK, INC., LASER ACQUISITION CORP., DDG I, INC., SUNBEAM AMERICAS HOLDINGS, LTD., <u>et al.</u>,</b>	:	<b>01-40252 (AJG) through 01-40290 (AJG)</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
	:	
	X	

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**AMENDED ORDER PURSUANT TO SECTIONS 327 AND 328  
OF THE BANKRUPTCY CODE AUTHORIZING EMPLOYMENT OF  
PROFESSIONALS UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion dated February 6, 2001 (the "Motion") of AI Realty Marketing of New York, Inc., Laser Acquisition Corporation, DDG I, Inc., Sunbeam Americas Holdings, Ltd. and substantially all of their direct and indirect domestic operating subsidiaries (collectively, the "Debtors"), as debtors in possession, for an order pursuant to sections 327 and 328 of title 11 of the United States Code (the "Bankruptcy Code"), approving the employment of certain professionals utilized by the Debtors in the ordinary course of their business (excluding professionals for whom the debtors have filed separate retention applications with this Court) (collectively, the "Ordinary Course Professionals"), all as more fully set forth in the Motion; and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion has been provided to the United States Trustee for the Southern District of New York, attorneys for the Debtors' prepetition senior lenders and attorneys for the Debtors' proposed postpetition lenders, and that no other or further notice need be provided; and it further appearing that the relief requested in the

Motion is in the best interests of the Debtors and their estates and creditors; and the Court having entered an order on February 6, 2001 authorizing the employment of professionals utilized in the ordinary course of business; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that, pursuant to sections 327 and 328 of the Bankruptcy Code, to the extent deemed necessary or appropriate by the Debtors, the Debtors are authorized to employ the Ordinary Course Professionals listed on Exhibit A to the Motion in the ordinary course of their business, effective as of the date of the commencement of the Debtors' chapter 11 cases; and it is further

ORDERED that each law firm retained as an Ordinary Course Professional shall file with the Court, within the later of (i) March 31, 2001 and (ii) the date of the law firm's engagement by the Debtors, an affidavit pursuant to section 327(e) of the Bankruptcy Code setting forth that such law firm does not represent or hold any interest adverse to the Debtors or to their respective estates; and it is further

ORDERED that the Debtors are authorized to supplement the list of Ordinary Course Professionals from time to time during these cases, as the need arises, and file such supplemental lists with the Court and serve same on the United States Trustee, the attorneys for the Debtors' prepetition senior lenders and the statutory committee of unsecured creditors, once appointed, and if no objections to any such supplemental lists are filed within 15 days after service thereof, the retention of such Ordinary Course Professionals shall be deemed approved by the Court pursuant to sections 327 and 328 of the Bankruptcy Code without the need for a hearing; and it is further

ORDERED that the Debtors are authorized and empowered to pay compensation and reimburse expenses to each of the Ordinary Course Professionals retained pursuant to this Order in the customary manner in the full amount billed by each such professional upon receipt of reasonably detailed invoices indicating the nature of the services rendered and calculated in accordance with such professional's standard billing practices (without prejudice to the Debtors' right to dispute any such invoices), up to \$25,000 per month per such professional; and it is further

ORDERED that any payments made in excess of the fee cap set forth in the decretal paragraph immediately preceding this decretal paragraph to any Ordinary Course Professional shall be subject to the prior approval of the Court in accordance with sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the Bankruptcy Court for the Southern District of New York, the Fee Guidelines promulgated by the Executive Office of the United States Trustee and any applicable orders of the Court; and it is further

ORDERED that this Order shall not apply to any professional retained by the Debtors pursuant to a separate order of this Court.

Dated: New York, New York  
March 1, 2001

s/Arthur J. Gonzalez  
HONORABLE ARTHUR J. GONZALEZ  
UNITED STATES BANKRUPTCY JUDGE