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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

	x	
	:	
In re	:	
	:	CHAPTER 11 CASE
SUNBEAM CORPORATION	:	01-40291 (AJG)
	:	
Debtor.	:	
	:	
	x	

COVER SHEET PURSUANT TO UNITED STATES TRUSTEE
GUIDELINES FOR REVIEWING APPLICATIONS FOR COMPENSATION
AND REIMBURSEMENT OF EXPENSES FILED UNDER 11 U.S.C. § 330

SECOND AND FINAL APPLICATION

Name of Applicant:	Mandel & McAilley LLP	
Role in the Case:	Litigation counsel employed by Debtor	
<u>Current Application</u> (April 1, 2002 to May 31, 2002)	Fees Requested:	\$ 70,534.00
	Expenses Requested:	2,184.42
<u>Prior Application</u> (August 1, 2001 to March 31, 2002)	Fees Previously Requested:	\$228,408.50
	Fees Previously Awarded:	\$216,988.07
	Expenses Previously Requested:	\$ 16,163.61
	Expenses Previously Awarded:	16,163.61
<u>Final Application</u>	Total Fees Requested:	\$298,942.50
	Total Expenses Requested:	\$ 18,348.03

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

_____	x	
	:	
In re	:	
	:	CHAPTER 11 CASE
SUNBEAM CORPORATION	:	01-40291 (AJG)
	:	
Debtor.	:	
	:	
_____	x	

**FINAL APPLICATION OF MANDEL & McALILEY LLP,
ATTORNEYS FOR DEBTOR SUNBEAM CORPORATION,
FOR FINAL ALLOWANCE OF COMPENSATION FOR SERVICES
RENDERED AND FOR REIMBURSEMENT OF EXPENSES**

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

Mandel & McAliley LLP, attorneys for Debtor, submits this final application (the “Final 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 final allowance of compensation for professional services

rendered from August 1, 2001 through May 31, 2002, (the “Final Compensation Period”),¹ and for reimbursement of its actual and necessary expenses incurred during the Final Compensation Period, and, in support thereof, respectfully represents:

**Summary of Professional Compensation
and Reimbursement of Expenses Requested**

1. Based on the balance of this application, Mandel & McAliley LLP (“Mandel & McAliley”) is requesting a final award of \$317,290.53. Mandel & McAliley will subtract payments received during the Final Compensation Period of \$256,288.07 from the amount it is awarded.

2. This Final 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, 1995 (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 the Order Pursuant to Sections 105(a) and 331 of the Bankruptcy Code Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals (the “Administrative Order” and, collectively with the Local Guidelines and

¹ For the months from February through July 2001, September 2001, and June through December 2002, Mandel & McAliley LLP’s invoices did not exceed the \$20,000 threshold for approval by the Bankruptcy Court, and, therefore, are excluded from this Final Fee Application.

UST Guidelines, the "Guidelines"). Pursuant to the Local Guidelines, a certification regarding compliance with same is attached hereto as Exhibit "A".

3. Mandel & McAiley seeks allowance of compensation for professional services rendered to the Debtor during the Final Compensation Period, totaling \$298,942.50 and for reimbursement of reasonable related expenses totaling \$18,348.03. During the Final Compensation Period, Mandel & McAiley attorneys and paraprofessionals expended a total of 2,099.40 hours for which compensation is requested.

4. During the Final Compensation Period, Mandel & McAiley has received no payment and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Final Application, with the sole exception of interim allowances of compensation for professional services rendered and reimbursement of actual and necessary expenses tendered by the Debtors in accordance with the Administrative Order and approved pursuant to the order of this Court dated August 31, 2001.

5. There is no agreement or understanding between Mandel & McAiley and any other person, other than members of the firm, for the sharing of compensation to be received for services rendered in these cases.

6. The fees charged by Mandel & McAiley in this case are billed in accordance with its existing billing rates and procedures in effect during the Final Compensation Period. The rates Mandel & McAiley charges for the services rendered by its professionals and para-professionals in chapter 11 cases are the same rates Mandel & McAiley charges for

professional and para-professional services rendered in comparable non-bankruptcy related matters. Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable non-bankruptcy cases in a competitive national legal market.

7. By this Application, Mandel & McAliley seeks the Court's confirmation of all prior amounts paid to Mandel & McAliley pursuant to the administrative order, as well as the allowance of the remainder of the fees and disbursements requested for the Final Compensation Period.

Jurisdiction and Venue

8. This Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 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. 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.

Summary of Services

9. Mandel & McAliley rendered a substantial amount of professional services during the Final Compensation Period in furtherance of the Debtor's pending consultant liability lawsuit in the case captioned Sunbeam Corporation v. PricewaterhouseCoopers LLP, Case No. CL005444AN, Fifteenth Judicial Circuit, Palm Beach County, Florida (the "Litigation"). Mandel & McAliley has been responsible for the day-to-day handling of the Litigation on Debtor's behalf, including factual and legal research and analysis; propounding

and responding to discovery; organization of documents produced during discovery including coding, organization, review, and production of previously recorded and unrecorded documents; drafting and filing pleadings; negotiating with opposing counsel; participating in conferences and hearings with the court; and developing case strategy.

10. The foregoing professional services performed by Mandel & McAiley were necessary and appropriate to the handling of the aforementioned litigation, and were in the Debtor's best interests. Compensation for the foregoing services as requested is commensurate with the complexity, importance and nature of the problems, issues or tasks involved. The professional services were performed with expedition and in an efficient manner.

Fees

11. On July 17, 2002, Mandel & McAiley filed its First Application of Mandel & McAiley LLP, Attorneys for Plaintiff Sunbeam Corporation, For Allowance of Interim Compensation For Services Rendered From August 1, 2001, Through March 31, 2002, and for Reimbursement of Expenses (the "Interim Application"). In that Application, Mandel & McAiley requested an allowance of \$228,408.50 in fees, less the 5% holdback, and \$16,163.61 for disbursements. On October 30, 2002, the Court entered an order directing payment of funds by the Debtor to Mandel & McAiley in the amounts of \$216,988.07 for fees and \$16,163.61 in expenses.

12. To date, Mandel & McAiley has received \$209,726.80 of the fees and 100% of the expenses approved by the Court in the Interim Application. The amount granted by

the Court represents the full amount of disbursements incurred by Mandel & McAiley from August 1, 2001, through March 31, 2002. For the same period, approximately \$18,681.70, including the 5% hold-back of \$4,420.43, remains outstanding pending the Final Fee hearing. The instant Final Application includes requests for additional fees of \$70,534.00 and additional disbursements of \$2,184.42 for the period subsequent to March 31, 2002.

13. Mandel & McAiley has previously submitted monthly fee statements for all months within the Final Compensation Period to Debtor, counsel for Debtor, counsel for the lenders, counsel for the creditors' committee, and the United States Trustee. These statements, which include daily descriptions of the services provided and expenses incurred, have also been filed with the Court. For the month of May 2002, Mandel & McAiley has received a total of \$30,397.66 which constitutes 100% of the expenses plus approximately 87.25% in payment of attorneys' fees. To date, no payment has been received for attorneys' fees or expenses for April 2002. In accordance with this Court's Order dated August 31, 2001, Mandel & McAiley is seeking payment of \$61,002.46 in fees and costs for the Final Compensation period, which constitutes the remaining fees allowed by this Court, including the remaining balance from the Initial Compensation period, with the 5% holdback, and the remaining fees and costs for the Current Compensation period.

14. During the Final Compensation Period, Mandel & McAiley attorneys and paraprofessionals expended a total of 2,099.40 hours for which compensation is requested. A schedule setting forth the number of hours expended by each of the partners, associates, and paraprofessionals of Mandel & McAiley who rendered services to Debtor during the

Final Compensation Period, their respective hourly rates, and the year of bar admission for each of the attorneys is attached hereto as Exhibit B. A schedule setting forth a description of the project categories, the number of hours expended by the partners, associates and paraprofessionals of Mandel & McAiley, and the relevant aggregate fees is attached hereto as Exhibit D.

15. Mandel & McAiley maintains computerized records of time spent by all Mandel & McAiley attorneys and paraprofessionals in connection with its representation of Debtor in the Litigation. These records have been filed with the Court, and provided to the United States Trustee, the Debtor, counsel for the Debtor, counsel for the lenders, and counsel for the creditors' committee as part of the submitted monthly fee statements for the Final Compensation Period. These monthly fee statements were redacted as necessary to protect attorney-client privileged and attorney-work-product privileged information.

16. Although all applicable time and disbursement charges are believed to have been included herein for the Final Compensation Period, to the extent that time or disbursement charges for services rendered or disbursements incurred related to the Final Compensation Period were not processed prior to the preparation of this Application, Mandel & McAiley reserves the right to request compensation for such services and reimbursement of such expenses in a future application.

Disbursements

17. Mandel & McAiley disbursed \$2,184.42 during the Final Compensation Period for expenses incurred in providing professional services. A schedule specifying the categories of expenses for which Mandel & McAiley is seeking approval of the reimbursement and the total amount for each expense category is attached as Exhibit C.

18. With respect to expenses for photocopying done at Mandel & McAiley, the firm's standard charge is \$.25 per page. Where the deadlines for court filings or discovery responses required photocopying to be done on a rush basis by an outside vendor, Mandel & McAiley charged the amount charged by that vendor. With respect to facsimile expenses, Mandel & McAiley does not charge for facsimile transmissions other than the cost of long distance facsimiles, which are charged at applicable telephone rates. The foregoing charges are intended to cover Mandel & McAiley's direct operating costs, which are not incorporated into Mandel & McAiley's hourly billing rates. Only clients who actually use services of the types set forth in Exhibit C are charged for those services. The amounts requested for reimbursement of expenses do not exceed those set forth in the guidelines.

19. Due to the requirements imposed in the Litigation for filing and service of pleadings and other documents, messenger charges have been required. In addition, due to the location of co-counsel and Sunbeam personnel, overnight delivery of documents had been required in certain circumstances. These and the other expenses set forth in Exhibit C were necessary, reasonable, and justified under the circumstances to serve the needs of

Debtor in the Litigation. Mandel & McAilley has made every effort to minimize disbursements in the Litigation.

The Requested Compensation Should Be Allowed

20. 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. See 11 U.S.C. § 331. Section 330 provides that a court may award a professional with "reasonable compensation for actual necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Section 330 further provides:

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 in a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (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).

21. In the instant case, Mandel & McAliley respectfully submits that the services for which it seeks compensation were necessary and beneficial to Debtor at the time when such services were rendered. As set forth in the certification attached hereto as Exhibit A, the compensation requested is reasonable in relation to the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code.

22. A copy of this Application has previously been provided to Steven Isko, Esq., Sunbeam Corp., who supervises the Litigation on behalf of Debtor. He has reviewed this Application and approved it.

Waiver of Memorandum of Law

23. Pursuant to Local Bankruptcy Rule 9013-1(b), because there are no novel issues of law presented by this Application, Mandel & McAliley respectfully requests that the Court waive the requirement that Mandel & McAliley file a memorandum of law to support this Application.

Notice

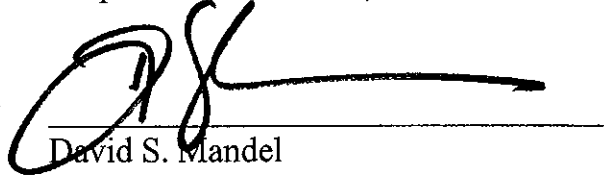
24. Copies of this Application have been provided to Debtor, the United States Trustee, bankruptcy counsel for Debtor, counsel for lenders, and counsel for the creditors' committee.

WHEREFORE, Mandel & McAliley respectfully requests (i) a final allowance of compensation of professional services rendered during the Final Compensation Period in the amount of \$317,290.53 in fees, of which 256,288.07 has been paid to Mandel & McAliley and \$61,002.46 is outstanding; (ii) final approval of the payment of actual and necessary

disbursements during the Final Compensation Period in the amount of \$18,348.03, of which 17,415.27 has been paid to Mandel & McAiley, and \$932.76 is outstanding, (iii) such other and further relief as the Court deems just.

Respectfully submitted,

By:



David S. Mandel
Mandel & McAiley LLP
Counsel for Sunbeam Corporation
1200 Alfred I. DuPont Building
169 E. Flagler Street
Miami, FL 33131
(305) 374-7771

Dated: February 6, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Application of Mandel & McAliley LLP, Attorneys Employed by Debtor, for Final Allowance of Compensation for Services Rendered and Reimbursement of Expenses was served this 6th day of February, 2003, by overnight mail on:

American Household, Inc.
2381 Executive Center Road
Boca Raton, FL 33431
Attn: Steven Isko, Esq.

Weil, Gotshal & Manges LLP
767 Fifth Ave
New York, NY 10153
Att: George Davis, Esq.
Jeffrey R. Gleitt, Esq.

The Office of the United States Trustee
33 Whitehall Street
21st Floor
New York, NY 10004
Attn: Paul K. Schwartzberg, Esq.

Simpson Thacher & Bartlett
425 Lexington Avenue
New York, NY 10017
Attn: Peter V. Pantaleo, Esq.
Alice B. Eaton, Esq.

Kasowitz Benson Torres & Friedman LLP
1633 Broadway
New York, NY 10019
Attn: David Friedman, Esq.
Lisa Laukitis, Esq.

EXHIBIT A

Mandel & McAliley LLP
1200 Alfred I. DuPont Building
169 E. Flagler Street
Miami, FL 33131
(305) 374-7771
David S. Mandel

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re)	
)	Chapter 11 Case No.
SUNBEAM CORPORATION,)	
)	01-40291 (AJG)
Debtor.)	
)	

**CERTIFICATION UNDER GUIDELINES FOR FEES AND
DISBURSEMENTS FOR PROFESSIONALS WITH RESPECT TO
MANDEL & McALILEY LLP'S FINAL APPLICATION FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

I, David S. Mandel, hereby certify that:

1. I am an attorney at law and the professional designated by the applicant, Mandel & McAliley LLP, with responsibility for 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 of 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 with respect to the Final Application of Mandel & McAliley LLP, Attorneys Employed by Debtor, for Final Allowance of Compensation for Services Rendered and Reimbursement of Expenses for the Period August 1, 2001, through May 31, 2002 (“the Final Compensation Period”).

3. With respect to § 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 and the UST Guidelines;
- (C) The fees and disbursements sought are billed at rates in accordance with practices customarily employed by Mandel & McAliley LLP and generally accepted by Mandel & McAliley LLP’s clients; and
- (D) In providing a reimbursable service (that is, expense disbursement), Mandel & McAliley LLP does not make a profit on that service, whether the service is performed by Mandel & McAliley LLP in-house or through a third party.

4. With respect to § B.2 of the Local Guidelines, I certify that:

- (E) The United States Trustee, the Debtor, counsel for the Debtor, counsel for the lenders, and counsel for the creditors’ committee have each been provided with monthly statements of Mandel & McAliley LLP’s fees and disbursements during the Compensation Period;
- (F) The monthly statements contain lists of professionals and paraprofessionals providing services, their respective billing rates, the aggregate hours spent by each professional and paraprofessional, a description of the services rendered (with redactions as necessary to protect attorney-client-privileged and work product protected information), a reasonably detailed breakdown of the disbursements incurred, and an explanation of the billing practices.

5. With respect to § B.3 of the Local Guidelines, I certify that the United States Trustee, the Debtor, counsel for the Debtor, counsel for the lenders, and counsel for the creditors' committee have each been provided with a copy of this Application.

A handwritten signature in black ink, appearing to be 'DM', written over a horizontal line.

David S. Mandel, Esq.
Mandel & McAiley LLP

Dated: February 6, 2003

EXHIBIT B

FEES

August 1, 2001 through May 31, 2002
(excluding September 1-30, 2001)

<u>Names of Professionals/ Paraprofessionals</u>	<u>Year Admitted To Practice</u>	<u>Hourly Rate</u>	<u>Hours Billed</u>	<u>Total For Application</u>
<u>Partners</u>				
David S. Mandel	1986	325.00	166.50	\$ 54,112.50
Chris McAliley	1983	300.00	1.20	360.00
Partner Totals			167.70	\$ 54,472.50
<u>Associates</u>				
Bernard L. Egozi	1998	185.00	2.70	\$ 499.50
Julie A. Owen	1995	205.00	50.10	10,270.50
Guy Giberson	1998	180.00	882.30	158,814.00
Associate Totals			944.50	\$170,430.00
<u>Paraprofessionals</u>				
Curtis Bozeman		75.00	239.90	\$ 17,992.50
Jeannette Lorenzo		75.00	198.90	14,917.50
Deborah Scherer		75.00	375.60	28,170.00
Robert House		75.00	172.80	12,960.00
Paraprofessional Totals			987.20	\$ 74,040.50
TOTAL HOURS			2,099.40	
TOTAL FEES				\$298,942.50

EXHIBIT C

DISBURSEMENTS

August 1, 2001 through May 31, 2002
(excluding September 1-30, 2001)

<u>Disbursement Categories:</u>	<u>Amount:</u>
Hand Deliveries	\$50.75
Postage	\$13.44
Internal Photocopying	\$2,570.75
Long Distance & Conf. Calling	\$1,296.03
Online Research	\$112.50
FedEx deliveries	\$519.80
Outside Copying & Bate Stamping	\$5,589.05
Parking	\$12.00
Witness Service fees	\$20.00
Travel expenses	668.17
Document Preparation & Scanning	\$8,026.54
TOTAL COSTS:	\$18,348.03

EXHIBIT D

General Description of Professional Services

August 1, 2001 through May 31, 2002
(excluding September 1-30, 2001)

Project Category/ Description	Total Hours	Total Amount
Litigation: Day-to-day handling of litigation on behalf of Debtor in the case of captioned <u>Sunbeam Corporation v. PricewaterhouseCoopers LLP</u> , Case No. CL005444AN, Fifteenth Judicial Circuit, Palm Beach County, Florida, including factual and legal research and analysis, propounding and responding to discovery, review and organization of extensive document production, drafting and filing pleadings, negotiating with opposing counsel, participating in conferences and hearings with the court, and developing case strategy.	2,099.40	\$298,942.50