

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
	:	Chapter 11 Case No.
Allegiance Telecom, Inc., <u>et al.</u> ,	:	03-13057 (RDD)
	:	
Debtors.	:	Jointly Administered

**FINAL ORDER AUTHORIZING THE EMPLOYMENT
AND RETENTION OF GREENHILL & CO., LLC AS FINANCIAL
ADVISOR AND INVESTMENT BANKER TO THE DEBTORS**

Upon the application (the “Application”), dated May 14, 2003, of Allegiance Telecom, Inc. and its direct and indirect subsidiaries, as debtors and debtors in possession (the “Debtors”), seeking entry of an order, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code,¹ authorizing and approving the employment and retention of Greenhill & Co., LLC (“Greenhill”), as financial advisor and investment banker to the Debtors, as more fully set forth in the Application; and upon the Affidavit of Michael A. Kramer, a Managing Director of Greenhill (the “Kramer Affidavit”); and a hearing to consider the Application on an interim basis having been held on May 15, 2003; and an order approving the Application on an interim basis having been entered on May 15, 2003; and two objections (collectively, the “Objections”) to the Application having been filed (a) by the statutory creditors’ committee on July 11, 2003 and (b) by General Electric Capital Corporation, as Agent for itself and certain other lenders, on July 12, 2003; and a response to the Objections having been filed by the Debtors on July 26, 2003; and a hearing (the “Final Hearing”) having been held on August 11, 2003 to approve the Application on a final basis; and the Court being satisfied, based on the representations made in the

¹ Unless otherwise defined herein, capitalized terms shall have the meaning ascribed to them in the Application.

Application, in the Kramer Affidavit and/or at the Final Hearing, that (i) Greenhill does not hold or represent an interest adverse to the Debtors or their estates, (ii) Greenhill is a “disinterested person” as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and (iii) the employment of Greenhill is necessary and is in the best interests of the Debtors, their creditors and estates; and the Court being satisfied that the terms of compensation being sought by Greenhill, as described in the Retention Agreement and as modified at the Final Hearing, are fair and reasonable; and the Court having jurisdiction to consider and determine the Application as a core proceeding pursuant to 28 U.S.C. §§157 and 1334; and it appearing that due and proper notice of the Motion has been given under the circumstances; and after due deliberation and sufficient cause appearing therefor it is

ORDERED that the Objections are overruled; and it is further

ORDERED that the Application, as modified, is granted; and it is further

ORDERED that the employment and retention of Greenhill as financial advisor and investment banker to the Debtors, on the terms set forth in the Retention Agreement (as modified by this Order), are hereby authorized and approved as of the Commencement Date on a final basis; and it is further

ORDERED that notwithstanding anything to the contrary in Section 2(a) of the Retention Agreement, one hundred percent (100%) of the amount of the Monthly Advisory Fee paid to Greenhill from and after May 14, 2003 shall be credited against any Recapitalization Transaction Fee received by Greenhill; and it is further

ORDERED that Greenhill shall be compensated and reimbursed in accordance with the terms of the Retention Agreement pursuant to section 328(a) of the Bankruptcy Code, subject to the procedures set forth in the Application and in accordance with the applicable

provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Bankruptcy Rules and guidelines established by the Office of the U.S. Trustee; and it is further

ORDERED that the U.S. Trustee, and only the U.S. Trustee, retains the right to object to Greenhill's interim and final fee applications (including the reimbursement of expenses) on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code; provided, however, that nothing in this Order shall limit the ability of any other party in interest to object to Greenhill's interim and final fee applications (including the reimbursement of expenses) solely under the standard of review set forth in section 328(a) of the Bankruptcy Code; and it is further

ORDERED that the Indemnification Provisions set forth in the Retention Agreement are hereby approved, subject to the following conditions:

(a) all requests of Indemnified Persons (as defined in the Retention Agreement) for payment of indemnity, contribution or otherwise pursuant to the Indemnification Provisions shall be made by means of an interim or final fee application and shall be subject to the approval of, and review by, the Court to ensure that such payment conforms to the terms of the Retention Agreement, the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and the orders of this Court and is reasonable based upon the circumstances of the litigation or settlement in respect of which indemnity is sought; provided, however, that in no event shall an Indemnified Person be indemnified or receive contribution to the extent that any claim or expense has resulted from the bad-faith, self-dealing, breach of fiduciary duty, gross negligence or willful misconduct on the part of that or any other Indemnified Person; and

(b) in no event shall an Indemnified Person be indemnified or receive contribution or other payment under the indemnification provisions of the Retention Agreement if the Debtors, their estates, or the official committee of unsecured creditors appointed in these chapter 11 cases assert a claim, to the extent that the Court determines by final order that such claim arose out of bad-faith, self-dealing, breach of fiduciary duty, gross negligence, or willful misconduct on the part of that or any other Indemnified Person; and

(c) in the event an Indemnified Person seeks reimbursement for attorneys' fees from the Debtors pursuant to the Retention Agreement, the invoices and supporting time records from such attorneys shall be annexed to Greenhill's own interim and final fee applications, and such invoices and time

records shall be subject to the U.S. Trustee's guidelines for compensation and reimbursement of expenses and the approval of this Court under the standards of section 330 of the Bankruptcy Code without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the Application, the Retention Agreement or this Order, the terms of this Order shall govern; and it is further

ORDERED that this Court shall retain jurisdiction to continue and enforce the terms of the Application, the Retention Agreement and this Order.

Dated: New York, New York
September 18, 2003

/s/Robert D. Drain
UNITED STATES BANKRUPTCY JUDGE