

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

---

In re:	)	Chapter 11
	)	
ALSET OWNERS LLC, <i>et al.</i> ,	)	Case No. 09-11960 (BLS)
	)	
Debtors.	)	Jointly Administered
	)	<b>Objections Due: August 10, 2009 at 4:00 p.m.</b>
	)	<b>Hearing Date: TBD</b>

---

**APPLICATION FOR AN ORDER PURSUANT TO SECTIONS 1103(a) AND 328(a)  
OF THE BANKRUPTCY CODE AUTHORIZING AND APPROVING  
THE EMPLOYMENT AND RETENTION OF EXECUTIVE SOUNDING BOARD  
ASSOCIATES, INC. AS FINANCIAL ADVISORS TO THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS *NUNC PRO TUNC* TO JUNE 24, 2009**

The Official Committee of Unsecured Creditors (the "Committee") in the above-referenced Chapter 11 cases, hereby applies to the Court for the entry of an order authorizing the Committee to retain and employ Executive Sounding Board Associates, Inc. ("ESBA"), as financial advisors to the Committee in these chapter 11 cases, pursuant to 11 U.S.C. § 1103(a) nunc pro tunc to June 24, 2009. In support of this application (the "Application"), the Committee submits the Declaration of Neil Gilmour III, a managing director of ESBA, a copy of which is attached as "Exhibit A" hereto (the "Gilmour Declaration") and respectfully represents as follows:

**Background**

1. On June 5, 2009 (the "Petition Date"), each of the above captioned debtors and debtors in possession, Alset Owners, LLC, Altes, LLC, Setla, LLC and Checkers Michigan, LLC (collectively, the "Debtors"), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§101 *et seq.* (as amended, the "Bankruptcy Code"). The

Debtors have continued in the management and operation of its businesses and properties pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these cases.

2. On June 24, 2009, the Office of the United States Trustee for the District of Delaware appointed the Committee. The members of the Committee are: Musky Checkers LLC, John J. Charleston Trust of 1998 and Marian Patricia Sellers Trust. After its formation, the Committee selected Klehr, Harrison, Harvey, Branzburg & Eilers LLP ("Klehr Harrison") as its counsel to represent it in all matters during the pendency of these cases, subject to Court approval.

**Request For Authority to Retain and Employ ESBA**

3. The Committee has determined that it would be in its best interest to retain financial advisors in these chapter 11 cases and desires to employ ESBA to provide such advisory services as may be necessary and beneficial to the Committee and unsecured creditors. The Committee requests that this Court authorize the retention of ESBA nunc pro tunc to June 24, 2009.

4. The Committee has selected ESBA because they have extensive experience in the necessary areas and can provide quality services in an efficient and cost effective manner. By way of summary, the Committee proposes to retain ESBA to provide the following services:

a. to assist, advise and represent the Committee in its consultation with the Debtors relative to the administration of these chapter 11 cases;

b. to assist, advise and represent the Committee in analyzing the Debtors' assets and liabilities, investigating the extent and validity of liens and participating in and reviewing any proposed asset sales or dispositions;

- c. to attend meetings and negotiate with the representatives of the Debtors and secured creditors;
- d. to assist and advise the Committee in its examination and analysis of the conduct of the Debtors' affairs;
- e. to assist the Committee in the review, analysis and negotiation of any plan(s) of reorganization or liquidation that may be filed and to assist the Committee in the review, analysis and negotiation of the disclosure statement accompanying any plan(s) of reorganization or liquidation;
- f. to assist the Committee in the review, analysis, and negotiation of any financing or funding agreements;
- g. to review and analyze claims filed against the Debtors' estates;
- h. to generally assist the Committee with all necessary motions, applications, answers, orders, reports and papers in support of positions taken by the Committee;
- i. to appear, as appropriate, before this Court, the Appellate Courts, and other Courts in which matters may be heard and to protect the interests of the Committee before said Courts and the United States Trustee; and
- j. to perform all other necessary financial advisory services in these cases.

5. ESBA has indicated a willingness to act on behalf of the Committee and render the necessary professional services as financial advisors the Committee.

6. The Committee has been advised that ESBA has no connection with the Debtors, its creditors or other parties-in-interest in these cases, other than as described in the Gilmour Declaration, which is hereby incorporated by reference.

7. Upon information and belief, other than as disclosed in the Gilmour Declaration,

ESBA neither holds nor represents any interest adverse to the Debtors' estate, creditors or equity holders. However, ESBA is a large firm with a national practice and may represent or may have represented certain of the Debtors' creditors or equity holders in matters unrelated to these cases.

8. ESBA has agreed to make appropriate applications to this Court for compensation and reimbursement of expenses in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of this Court and any Order entered by this Court in these cases modifying the timing and/or procedures applicable to the payment of interim compensation and reimbursement of expenses. ESBA will bill at its normal hourly rates, which range from \$450 to \$195. The principals at ESBA designated to represent the Committee and their current hourly rates are:

Neil Gilmour III	\$425
James Fox	\$450
Chris O'Callaghan	\$360
Robert Agarwal	\$300

9. These hourly rates are subject to periodic increase in the normal course of ESBA's business. The professionals assigned to these cases will from time-to-time vary based upon the needs of the engagement. All such professionals will bill at ESBA's regular hourly rate for work of this nature. These rates are set at a level designed to fairly compensate ESBA for the work of its professionals and to cover fixed and routine overhead expenses. It is ESBA's policy to charge its clients in all areas of practice for all other out-of-pocket expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier toll charges, photocopying charges, travel expenses, expenses for "working meals," as well as non-ordinary expenses such as secretarial overtime.

**NOTICE**

10. No trustee or examiner has been appointed in the Debtors' chapter 11 cases. Notice of the hearing on this Application has been provided to the Office of the United States Trustee, members of the Committee, counsel to the pre-petition lender and all parties requesting notice pursuant to Bankruptcy Rule 2002. The Committee submits that under the circumstances, no further notice is necessary.

**WHEREFORE**, the Committee respectfully requests entry of an order, in a form substantially similar to that annexed hereto, and pursuant to sections 1103(a) of the Bankruptcy Code, authorizing the Committee to retain ESBA as its financial advisor in these cases, *nunc pro tunc* to June 24, 2009, and granting such other and further relief as may be just and proper.

Dated: July 13, 2009

THE OFFICIAL COMMITTEE OF  
ALSET OWNERS LLC, *et al.*

By: 

Chairperson