

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS
KANSAS CITY DIVISION**

In re:)	
)	
DICKINSON THEATERS, INC.,)	Case No. 12-22602
a Kansas corporation,)	
)	Chapter 11
)	
Debtor.)	

APPLICATION FOR EMPLOYMENT OF ROBERT J. RAYBURN III AS GENERAL CORPORATE AND CONFLICTS COUNSEL FOR THE DEBTOR

COMES NOW, the above-captioned debtor and debtor-in-possession (collectively, the "Debtor"), and for its Application for Employment (the "Application") of Robert J. Rayburn III ("Rayburn"), as General Corporate and Conflicts Counsel for Debtor pursuant to Sections 105(a), 327(e), 328, 330, 503(b), 504, and 507(a)(2) of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), Rule 2014, 2016, 5002, and 6003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and D. Kan. LBR 2014.1 of the Local Bankruptcy Rules (the "Local Rules"), for the entry of an Order granting the Application so that Rayburn is authorized to represent the Debtor, as general corporate and conflicts counsel in these bankruptcy cases, when its primary reorganization counsel, Stinson Morrison Hecker LLP ("Stinson"), has an unavoidable conflict of interest. In support of the Application, the Debtor states as follows:

JURISDICTION

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and rule based predicates for relief with respect to the Application are Sections 105(a), 327(e), 328, 330, 503(b),

504, and 507(a)(2) of the Bankruptcy Code, Rule 2014, 2016, 5002, and 6003 of the Bankruptcy Rules and Rule 2014.1 of the Local Rules.

APPLICATION

2. On September 21, 2012 (the "Petition Date"), Debtor filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code.

3. On September 21, 2012, the Debtor filed its Application for Employment of Stinson as Primary Reorganization Counsel for the Debtor (the "Stinson Application"). (*See* Docket No. 2).

4. Debtor continues to be in possession of its properties and is continuing to operate and manage its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

5. Debtor has determined the necessity of employing general corporate and also conflicts counsel in the event that its primary reorganization counsel, Stinson, has a conflict of interest that it cannot waive in its representation of Debtor in this bankruptcy case. The Debtor desires to employ Rayburn as general corporate and conflicts counsel for Debtor. Rayburn is an attorney with offices located at 7400 W. 110th Street, Suite 600, Overland Park, Kansas 66210.

6. Rayburn is a duly qualified and licensed attorney before this Court and, in the opinion of Debtor is qualified to act as general corporate and also conflicts counsel for its state in the event Stinson has an unavoidable conflict of interest.

7. Debtor has selected Rayburn for the reason that Rayburn has considerable experience in tax law, corporate bankruptcy, restructuring, debtor-creditor law, secured transactions, and other areas of the law, as well as having started his career as a CPA and also currently holding a Charter Global Management Accountant designation. Additionally, since

January 23, 2012, Rayburn has acted as Debtor's general corporate counsel and is therefore has extensive familiarity with the Debtor, its business operations, and practice. Debtor believes that Rayburn is also particularly well qualified to represent Debtor as conflicts counsel in the event that Stinson has a conflict of interest that cannot be waived.

8. Debtor, Stinson and Rayburn will work closely to ensure that no duplication of services occurs between Stinson and Rayburn. Stinson and Rayburn are willing to accept this arrangement and Rayburn is willing to accept this agreement.

9. The services to be provided by Rayburn under the terms of this Application are generally limited to matters as general corporate counsel and as conflicts counsel in the event that Stinson is unable to perform in this matter due to unavoidable conflicts. As general corporate and conflicts counsel, Rayburn will provide the following services to Debtor:

- A. Represent Debtor in all matters herein where Stinson is unable to represent Debtor; and
- B. Represent Debtor in all other matters as may be agreed upon by and between Debtor and Rayburn.

10. The engagement of Rayburn to represent Debtor with respect to matters for which his retention is proposed will allow Debtor and their primary reorganization counsel to benefit significantly from the relationship between Debtor and Rayburn. It will also provide Debtor with competent conflicts counsel of their choice as needed. The engagement of Rayburn is therefore in the best interest of Debtor's estate and its creditors.

11. Subject to the Court's allowances, Rayburn has agreed to provide legal services at his ordinary and customary hourly rates in effect on the date services are rendered for services (the "Hourly Fees"). Rayburn's billing rate is \$225.00/hour.

12. Rayburn received and holds a retainer payment in the amount of \$25,000.00 (the "Retainer") for this engagement. The Retainer will be held in trust by Rayburn to be applied to amounts due and as authorized by this Court. Rayburn will request that the Retainer be applied as to compensations as permitted by this Court. Attached to the Application as Exhibit 1, as required by Rule 2014.1(a)(2) of the Local Rules, is Rayburn's statement of compensation required by Section 329 of the Bankruptcy Code.

13. Debtor wishes to employ and retain Rayburn, and believe that the Hourly Fees are fair and appropriate for the services Rayburn has been asked to provide. Subject to this Court's approval, Rayburn has agreed to be employed and retained pursuant to such terms and conditions as set forth in this Application.

14. Debtor understands that Rayburn will charge Debtor for expenses he incurs in connection with this bankruptcy case as charged generally to bankruptcy and non-bankruptcy clients alike, and in accordance with the applicable guidelines.

15. Debtor understands that Rayburn will charge Debtor for the fees and expenses as stated above, and that all fees and expenses shall be subject to this Court's final review and approval after the filing of an application for compensation in accordance with Sections 328, 330, 503(b), 504, and 507(a)(2) of the Bankruptcy Code, Rule 2014, 2016, 5002, and 6003 of the Bankruptcy Rules and Rule 2014.1 of the Local Rules.

16. Rayburn intends to apply to this Court for compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and pursuant to any additional procedures that may be established by the Court in this case.

17. To the best of Debtor's knowledge, information and belief, other than as disclosed herein, Rayburn has no connection with Debtor, its creditors, the United States Trustee or any other parties-in-interest in this case, or their respective attorneys or accountants (based on his investigation of his client lists as of the date of this Application) and does not hold or represent any other known or reasonably ascertainable interest adverse to Debtor in the matters upon which he is engaged. To the best of Debtor's knowledge, Rayburn does not hold or represent an interest adverse to Debtor's estate and is disinterested, as that term is defined in Section 101(14) of the Bankruptcy Code, for the purposes of representing Debtor as general corporate and conflicts counsel in these Chapter 11 cases.

18. Rayburn will not represent any person or entity in connection with any matters adverse to Debtor. Further, should Rayburn discover during the pendency of these bankruptcy cases that he represents an entity or person that is a creditor in these bankruptcy cases, he will fully disclose to the Court the nature of its representation and relationship thereto.

19. To check and clear potential conflicts of interest in these bankruptcy cases, Rayburn reviewed the list of the Debtor's creditors, and other known parties-in-interest, and compared it to his client database to determine whether he has any relationships with the listed entities, if known. As of the filing of this Application, such research indicated that Rayburn has not represented, nor does he currently represent any of the foregoing persons or entities in matters related or unrelated to these bankruptcy cases. Additionally, Rayburn has not done work for creditors of the Debtor totally unrelated to this case.

20. Further, Rayburn will not represent any person or entity in connection with any matter adverse to Debtor or its estate. Should Rayburn discover during the pendency of this

bankruptcy case that he represents any entity or person that is adverse to Debtor, he will fully disclose to the Court the nature of his representation and relationship thereto.

21. Rayburn rendered services to Debtor prior to the Petition Date, but is owed no amounts from Debtor as of the Petition Date.

22. In compliance with Rule 2014.1(a)(1)(A) of the Local Rules, Rayburn submits that, at this present time, he will be the only attorney appearing on behalf of the Debtor, as general corporate and conflicts counsel, before this Court. A declaration, pursuant to Rule 2014 of the Bankruptcy Rules and Rule 2014.1(b) of the Local Rules (the "Declaration"), for Mr. Rayburn is attached to the Application as Exhibit 2. The Declaration will be supplemented as additional information becomes available.

23. As reflected in the Declaration, there are two categories of Creditor Clients. The first category consists of Creditor Clients for whom Rayburn has previously done work on unrelated matters but there is no current or ongoing representation of those Creditor Clients (identified as Group 1 Creditor Clients in the Declaration). The second category consists of Creditor Clients that Rayburn is currently representing on unrelated matters and from whom Rayburn has either secured, or is in the process of securing conflict waivers (identified as Group 2 Creditor Clients in the Declaration).

24. While Rayburn has provided legal services to the JunAnn Horton Revocable Trust dated May 25, 2005 (not a Creditor), in the formation of 6801 W 107th, LLC, Rayburn has not provided legal services to the resulting 6801 W 107th, LLC, nor does Rayburn serve as legal counsel to 6801 W 107th, LLC. As a result, Rayburn has no Group 1 Creditor Clients and has collected no fees therefrom. For disclosure purposes, Rayburn did receive a fee for the

formation described above with such fee accounting for approximately .002% of his annual firm revenue. Rayburn has no Group 2 Creditor Clients and has no fees collected therefrom.

25. Debtor believes that it is in the best interest of its estate and its creditors for Debtor to be authorized to employ Rayburn as general corporate and conflicts counsel in matters wherein their primary reorganization counsel Stinson Morrison Hecker LLP are unable to provide counsel to Debtor and in those other matters agreed upon between Debtor and Rayburn.

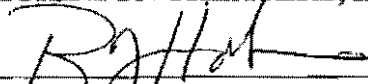
26. Notice of the Application has been given to: (a) the Office of the United States Trustee (the "U.S. Trustee"); (b) the creditors on each of the Debtors' lists of twenty (20) largest unsecured creditors; (c) counsel to the Prepetition Secured Lender; (d) all known parties with liens of record on assets of the Debtors as of the Petition Date; (e) all financial institutions at which the Debtors maintain deposit accounts; (f) the Internal Revenue Service; (g) the Kansas Department of Revenue; and (h) all other parties requesting notice pursuant to Bankruptcy Rule 2002.

WHEREFORE, Debtor prays that this Honorable Court enter its order: (i) authorizing and approving the retention and employment by Dickinson Theaters, Inc., of Robert J. Rayburn III as its special counsel when its primary reorganization counsel, Stinson Morrison Hecker, LLP, has an unavoidable conflict of interest, effective as of the Petition Date, with compensation and reimbursement of expenses to be paid as an administrative expense in such amounts as may be allowed by this Honorable Court pursuant to Sections 330, 331, 503(b) and 507(a)(1) of the Bankruptcy Code; and (ii) granting such other and further relief as this Honorable Court deems just and proper.

Dated: September 21, 2012

Respectfully submitted,

DICKINSON THEATERS, INC.

s/  _____

Ron Horton
Chief Executive Officer
Dickinson Theaters, Inc.

ROBERT J. RAYBURN, III,
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