

MARTIN, PRINGLE, OLIVER,
WALLACE & BAUER, L.L.P.
100 N. Broadway, Suite 500
Wichita, KS 67202
(316) 265-9311
FAX: (316) 265-2955

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

IN RE:)
)
DICKINSON THEATRES, INC.) Case No. 12-22602
) Chapter 11
)
)

Debtor.)

MOTION FOR ALLOWANCE OF ADMINISTRATIVE CLAIM

COMES NOW NR 14, LLC ("NR 14"), by and through counsel, W. Rick Griffin of Martin, Pringle, Oliver, Wallace & Bauer, LLP, and for its motion for an order of this Court an allowing administrative priority claim, states as follows:

1. The debtor filed for relief under Chapter 11 of the Bankruptcy Code on September 21, 2012.
2. Prior to the bankruptcy filing, NR 14 entered into a written lease (hereinafter "Lease") with Dickinson covering real property commonly referred to as 2151 N. Penstemon St., Wichita, KS 67226. A true and correct copy of the Lease is attached to the Proof of Claim attached hereto as Exhibit A.
3. Along with Dickinson's Chapter 11 Petition, Dickinson sought and obtained the Court's order rejecting NR 14's Lease as of September 21, 2012.

4. Although Dickinson's rejection of the Lease was effective as of the date of the bankruptcy filing, Dickinson did not vacate the leased premises until October 28, 2012. Furthermore, Dickinson continued to operate its theater located at the leased premises through the evening of October 28, 2012.

5. On October 22, 2012, NR 14 received a check from Dickinson in the amount of \$35,364 for payment of rent for the period of October 2012.

6. Prior to receiving the Dickinson check for payment of October 2012 rent, NR 14 calculated Dickinson's obligation for post-petition rent at \$43,572.84. After deducting the October 2012 rent payment, NR 14 has calculated Dickinson's obligation for post-petition base rent at \$8,208.84.

7. In addition to Dickinson's obligation for post-petition base rent, Dickinson was obligated under the Lease—a triple-net lease—to complete certain ongoing maintenance at the leased premises, including the overhaul and testing of two fire backflow devices at the leased premises. The City of Wichita provided notice of the backflow rebuild requirements on October 1, 2012 and again on October 16, 2012. The notices are attached hereto as Exhibit B. The cost to complete these maintenance items is set forth in the estimate attached hereto as Exhibit C at \$746.63.

8. In addition, upon entry of the leased premises following Dickinson's close of operations, NR 14 has discovered that the locks on two sets of double doors at the leased premises were malfunctioning and that the doors were being chained together by bicycle chains. The cost of the repair of the locking mechanisms on the doors came to \$257.52. The invoice for

the lock repair is attached as Exhibit D. Like the backflow repairs referenced in the preceding paragraph, these maintenance items were standard obligations of Dickinson under the Lease.

9. The total post-petition Lease obligation due as a result of Dickinson's continued possession of the leased premises following Dickinson's rejection of the lease amounts to \$9,212.99.

10. Code § 503(b)(1)(A) provides that, after notice and hearing, a creditor may be allowed as an administrative expense the actual, necessary costs and expenses of preserving the estate. As stated above, Dickinson maintained possession of the lease premises, continuing to operate its business, to the benefit of the bankruptcy estate. Accordingly, rent and maintenance expense accrued post-petition and prior to Dickinson's vacating the leased premises is allowable as an administrative expense. *In re Pacific-Atlantic Trading Co.*, 27 F.3d 401, 403 (Post-petition rent accrued on nonresidential lease gives rise to an administrative claim for the full amount of the rent.).

WHEREFORE, creditor NR 14, LLC respectfully requests allowance of an administrative claim in the amount of \$9,212.99; and for any other or further relief as the Court deems just and equitable.

MARTIN, PRINGLE, OLIVER,
WALLACE & BAUER, L.L.P.

By: s/ W. Rick Griffin
W. Rick Griffin, # 21628
Attorneys for MachineryLink, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th day of November, 2012, he uploaded to the CM/ECF system the above and foregoing Motion, which will send a notice of electronic filing to those requesting notice pursuant to Bankruptcy Rule 2002 and other interested parties.

s/ W. Rick Griffin _____