

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

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

**ORDER GRANTING THE DEBTOR'S MOTION TO RETAIN
PROFESSIONALS IN THE ORDINARY COURSE OF ITS
BUSINESS NUNC PRO TUNC TO THE PETITION DATE**

This matter having come before the Court upon the motion (the "Motion")¹ filed by the above-captioned debtor and debtor in possession (collectively, the "Debtor"), seeking entry of an order establishing procedures for interim compensation and reimbursement of expenses of Professionals pursuant to Bankruptcy Code sections 105(a), 328, 330 and 331, as more fully set forth in the Motion; the Court having reviewed the Motion and having heard the statements of counsel in support of the relief requested therein at a hearing thereon (the "Hearing"); the Court finding that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors and other parties in interest; the Court finding that: (a) it has jurisdiction over the

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

matters raised in the Motion pursuant to 28 U.S.C. § 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) venue of this proceeding and this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; (d) the relief requested in the Motion is warranted and is in the best interests of the Debtor, its estate, creditors, and other parties in interest; and (e) notice of the Motion and the Hearing given by the Debtor was sufficient under the circumstances; and the Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Motion establish just cause for the relief herein granted; and after due deliberation and cause appearing therefor, it is:

ORDERED that the Motion is **GRANTED** in its entirety; and it is further

ORDERED that all objections to the Motion or the relief requested therein that have not been made, withdrawn, waived, or settled, and all reservations of rights included therein, hereby are overruled on the merits; and it is further

ORDERED that notice of the Motion was proper, timely, adequate and sufficient under the particular circumstances; and it is further

ORDERED that except as may otherwise be provided in Court orders authorizing the retention of specific Professionals, all Professionals in this case may seek interim compensation in accordance with the following procedures:

- (a) No later than the 20th day of each calendar month, each Professional seeking interim compensation and expense reimbursement shall file its monthly invoice (the "Monthly Statement") for the prior month (the "Compensation Period") and serve a copy of such Monthly Statement on: (i) counsel to Dickinson Theatres, Inc., Stinson Morrison Hecker LLP, Attn: Sharon L. Stolte, Esq., 1201 Walnut Street, Suite 2900, Kansas City, Missouri 64106; (ii) counsel to the Official Committee of Unsecured Creditors, once appointed; (iii) the Office of the United States Trustee, United States Trustee, 301 North Main Street, Suite 1150, Wichita, Kansas 67202 (collectively, the "Notice Parties").

- (b) All Monthly Statements shall comply with the timekeeping and detail requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), applicable law, the Local Rules of this Court and the "United States Trustee Fee Guidelines - Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 (Appendix A to 28 C.F.R. § 58)" (the "US Trustee Fee Guidelines"). Each Notice Party will have ten (10) days after service and filing of a Monthly Statement to object thereto (the "Objection Deadline"). Upon the expiration of the Objection Deadline, the Debtor shall be authorized and directed to pay each Professional an amount (the "Actual Monthly Payment") equal to the lesser of (i) eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses requested in the Monthly Statement (the "Maximum Monthly Payment"); and (ii) eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses not subject to an objection pursuant to subparagraph (b) below.
- (c) If any Notice Party objects to a Professional's Monthly Statement, it must serve on the affected Professional and each of the Notice Parties a written objection (the "Objection"), which must be received by the affected Professional and the Notice Parties on or before the Objection Deadline. Thereafter, the objecting party and the affected Professional may attempt to resolve the Objection on a consensual basis. If the parties are unable to reach a resolution of the Objection within twenty (20) days after service of the Objection, the affected Professional may either: (i) file a response to the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Monthly Payment and the Actual Monthly Payment made to the affected Professional (the "Incremental Amount"); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the Objection if requested by the parties.
- (d) Beginning with the period ending _____, at three-month intervals or at such other intervals convenient to the Court, each of the Professionals must file with the Court and serve to the Notice Parties an interim application ("Interim Fee Application") for Court approval and allowance, pursuant to section 331 of the Bankruptcy Code, of the compensation and reimbursement of expenses sought in the Monthly Applications filed in respect of such three-month period (the "Interim Fee Period"). Each Interim Fee Application must include copies of the Monthly Statements that are the subject of the application and any other information requested by the Court or required by the Bankruptcy Rules or the Local Rules. Each Professional must file its Interim Fee Application within twenty (20) days after the end of the Interim Fee Period for which the application seeks allowance of fees and reimbursement of expenses.

Each Professional must file its first Interim Fee Application on or before _____, and the first Interim Fee Application should cover the Interim Fee Period from the commencement of this case through and including _____. Any Professional that fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the compensation procedures until such time as the Interim Fee Application is submitted by the Professional or such requirement is waived by the Court after notice and hearing.

- (e) The Debtor shall request that the Court schedule a hearing on the Interim Fee Applications at least once every three months, or at such other intervals as the Court deems appropriate.

ORDERED that the Debtor shall request that the Court schedule a hearing on the outstanding Interim Fee Applications at least once every three months, or at such other intervals as the Court deems appropriate; and it is further

ORDERED that the pendency of an Objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from the future payment of compensation or reimbursement of expenses under the Revised Compensation Procedures; and it is further

ORDERED that neither: (a) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses, nor (b) the filing of or failure to file an Objection will bind any party in interest or the Court with respect to the allowance of interim or final applications for compensation and reimbursement of expenses of Professionals; and it is further

ORDERED that each member of the Committee or any other Court-appointed committee in these cases is permitted to submit statements of expense (excluding committee member counsel expenses) and supporting vouchers to Court-approved counsel to such committee, which

shall collect and submit such committee members' requests for reimbursement in accordance with the procedures established in this Order; and it is further

ORDERED that notice of the Monthly Statements, and Interim and Final Fee Applications, and any hearings thereon need only be served upon: (a) the Notice Parties; and (b) any parties who have filed a notice of appearance with the Clerk of this Court and requested such notice; and it is further

ORDERED that the Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order; and it is further

ORDERED that all time periods referenced in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a); and it is further

ORDERED that notwithstanding the possible applicability of Rules 6004, 7062, or 9014 of the Bankruptcy Rules, or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

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Order Prepared By:

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