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*Attorneys for the Debtors and
Debtors In Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|---|---|-------------------------------|
| In re: | § | CASE NO. 09-37010 |
| | § | CHAPTER 11 |
| ERICKSON RETIREMENT | § | |
| COMMUNITIES, LLC, <i>et al.</i>,¹ | § | (Jointly Administered) |
| | § | |
| Debtors. | § | |

**FIRST AND FINAL APPLICATION OF FARRELL FRITZ, P.C. FOR ALLOWANCE
OF FEES AND REIMBURSEMENT OF EXPENSES AS COUNSEL FOR THE
DEBTORS FOR THE PERIOD NOVEMBER 19, 2009 THROUGH APRIL 30, 2010**

Farrell Fritz, P.C. ("Farrell Fritz"), counsel to the debtors and debtors in possession in the above-captioned, jointly administered cases, hereby submits its first and final application (the "Application") pursuant to sections 105(a) and 330 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), Rule 2016(a) of the Federal Rules of Bankruptcy Procedure and the Guidelines for Compensation and Expense Reimbursement of Professionals promulgated by this Court, for allowance of compensation for professional services rendered and reimbursement of actual, necessary expenses incurred by Farrell Fritz during the period from

¹ The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, and Warminster Campus, LP.

November 19, 2009 through and including April 30, 2010 (the “Application Period”). In support of the Application, Farrell Fritz respectfully states as follows:

1. Farrell Fritz submits this Application for allowance and payment of professional compensation in the total amount of \$251,215.00 and reimbursement of actual and necessary expenses in the total amount of \$12,473.81 incurred during the Application Period, plus an additional estimated amount of \$5,000.00 for the preparation and filing of this Application.² In support of the Application, and as described below, Farrell Fritz submits a summary of time charges and disbursement charges (attached hereto as Exhibit “C”) and chronological and detailed records of all of its time charges and disbursement charges (attached hereto as Exhibits “D” through “E,” respectively) for which Farrell Fritz seeks allowance and payment. A certification in support of the Application is attached hereto as Exhibit “A.”

2. This Application is Farrell Fritz’s first and final application for compensation and reimbursement of expenses. As of the date of this Application, Farrell Fritz has not received any compensation for fees or reimbursement of expenses for services rendered or expenses incurred during the Application Period.

BACKGROUND

3. On October 19, 2009 (the “Petition Date”), the Debtors each filed their respective voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. Following the Petition Date, the Debtors continued to manage their properties and operate their businesses as debtors in possession under sections 1107 and 1108 of the Bankruptcy Code.

² The estimated amount of \$5,000.00 for the preparation and filing of this Application is not reflected in the description of fees and expenses attached hereto.

4. By Order of the Court, dated November 24, 2009, the Debtors were authorized to employ and retain DLA Piper LLP (US) (“Piper”) as their lead counsel, nunc pro tunc to the Petition Date.

5. By Order of the Court, dated February 22, 2010, the Debtors were also authorized to employ and retain Farrell Fritz as conflicts and other counsel during the course of the bankruptcy cases, nunc pro tunc to November 19, 2009 (the “Retention Order”). A copy of the Retention Order is annexed hereto as Exhibit “B.”

6. On April 21, 2010, the Court entered its Amended Findings of Fact, Conclusions of Law, and Order Confirming the Debtors’ Fourth Amended Joint Plan of Reorganization (the “Plan”) under Chapter 11 of the Bankruptcy Code. The Effective Date of the Plan was April 30, 2010.

THE APPLICATION

7. By this Application, Farrell Fritz seeks final allowance and payment of fees for services rendered by Farrell Fritz as counsel to the Debtors, as well as reimbursement of actual, necessary expenses incurred by Farrell Fritz in that capacity during the Application Period. Farrell Fritz has not been paid, and has not received, any retainer, advance or other amount from any source on account of its representation of the Debtors in these cases. Moreover, Farrell Fritz has no agreement or understanding with any other entity concerning the fixing, payment or division of the requested compensation and expenses. The Debtors elected to retain Farrell Fritz with knowledge of the fact that the firm would apply to this Court to be paid for the services it rendered at its normal hourly rates.

8. Farrell Fritz seeks compensation for 468.8 hours of services rendered during the Application Period in representing the Debtors in these cases. Multiplying the hours spent upon

this case on behalf of the Debtors by the individual attorney's and paralegal's usual hourly billing rate yields \$251,215.00 as the value of the services rendered by Farrell Fritz during the Application Period. The names, hourly billing rates and total hours and fees charged for each of the Farrell Fritz professionals who performed services for the Debtors during the Application Period are summarized on Exhibit "C." Farrell Fritz submits that the compensation requested is reasonable and is consistent with the nature and extent of the services rendered during the Application Period, the size and complexity of these cases, the time, labor and special expertise brought to bear on the questions presented, and other related factors.

9. Farrell Fritz's attached detailed time records, contained in Exhibit "D," include: (a) the date of each service rendered; (b) the identity of the person who rendered this service; (c) a detailed description of each service rendered; and (d) the total time devoted by the person to the services on the date. Farrell Fritz's time entries for services performed during the reporting period have also been organized and subdivided among the separate project categories required by the guidelines promulgated by the Office of the United States Trustee.

10. All services rendered by Farrell Fritz personnel for the Debtors during the Application Period were performed in connection with the representation of the Debtors as conflicts counsel in these chapter 11 cases.

11. Farrell Fritz also seeks reimbursement of expenses incurred in connection with its representation of the Debtors during the period covered by this Application. Descriptions of the disbursements covered by this Application, divided by category and amount, are annexed to the time records as Exhibit "E."

SUMMARY OF SERVICES RENDERED

12. During the Application Period, Farrell Fritz performed a variety of bankruptcy and related services for the Debtors, which are set forth in Farrell Fritz's detailed time records attached hereto as Exhibit "D." A brief summary highlighting some of the services performed by Farrell Fritz during the Application Period is provided below.

A. Chapter 11 Bankruptcy Case (23698.0100)

13. Farrell Fritz professionals devoted a total of 140.1 hours, representing approximately 29.9% of the total billed time during the Application Period, to perform related services in the category denoted generally as "Chapter 11 Bankruptcy Case."

14. Under this category, Farrell Fritz's services rendered on behalf of the Debtors at the Debtors' request during the Application Period included, among other things:

- Monitoring, reviewing and communicating with Piper regarding the status of the case, client documents, various pleadings filed, hearings scheduled in connection with the same and attending and participating in various hearings and conferences.
- Prepare application for retention of Farrell Fritz, and coordinate with Piper regarding the filing of same, including the submission of pro hac vice applications for certain Farrell Fritz professionals.
- Analyzing sale and bid procedures, and related bid proposals and sale issues as to potential bidder, and communicating with Piper as to the analysis.
- Reviewing and analyzing lease and true sale issues.
- Attending and participating in auction and assisting Piper during the sale process.
- Prepare for and participate on a weekly scheduled case status and process call between the Debtors' professionals.
- Reviewing and analyzing issues related to a proposed examiner.

- Reviewing and analyzing the Debtors' plan and disclosure statement, including amendments of the same, and also other pleadings in connection with the disclosure statement, including the motion to determine proper allocation, as well as analyzing and researching issues on standing, claims trading and subordination agreements.

B. Recharacterization Adversary Proceedings (23698.0101)

15. Farrell Fritz professionals devoted a total of 260.7 hours, representing approximately 55.6% of the total billed time during the Application Period, to perform services in the category denoted "Recharacterization Adversary Proceedings."

16. Under this category, Farrell Fritz's services rendered on behalf of the Debtors during the Application Period included, among other things:

- Reviewing various documents and communicating with Piper concerning recharacterization issues and coordinating the commencement of adversary proceedings, including the drafting, commenting, revising, and finalizing of complaints.
- Filing the complaints, including communicating with opposing counsel to coordinate service of same.
- Attending to issues on joint pretrial scheduling and discovery, including communicating with Piper as to same and reviewing drafts of proposed orders, and participating and discussing scheduling matters with opposing counsel.
- Reviewing and following up on Rule 2004 examination document requests, including review of motions to compel and subpoenas.
- Communicating and coordinating with Piper on discovery production matters.
- Preparing for, attending and participating in hearings before the Court.
- Reviewing and commenting on initial disclosures, and finalizing and serving initial disclosures on opposing counsel, as well as preparing document requests and serving opposing counsel with same.
- Communicating with Piper as to deposition scheduling and discovery requests.

- Analyzing proposed settlement documents, including communicating with Piper as to general status of litigations.
- Reviewing answers filed by defendants to complaints in adversary proceedings.
- Reviewing of confidentiality agreements in connection with planned discovery.
- Communicating with opposing counsel regarding stay of litigation pending potential resolution of matters.
- Reviewing and analyzing pleadings in connection with valuation motion, and communicating with Piper as to general strategy.

C. Petition Date Set Off (23698.0102)

17. Farrell Fritz professionals devoted a total of 49.6 hours, representing approximately 10.6% of the total billed time during the Application Period, to perform related services in the category denoted “Petition Date Set Off.”

18. Under this category, Farrell Fritz’s services rendered on behalf of the Debtors during the Application Period included, among other things:

- Investigating and analyzing transactions occurring just prior to the Petition Date by which the Administrative Agent for the Debtors’ Revolving Credit Lenders obtained possession of, and allegedly realized upon, several million dollars worth of securities that had been pledged as collateral by the Debtors.
- Analyzing the avoidability of transfers of these securities to the Administrative Agent and making recommendations to the Debtors concerning the same.

D. Section 552(b) Research (23698.0103)

19. Farrell Fritz professionals devoted a total of 18.4 hours, representing approximately 3.9% of the total billed time during the Application Period, to perform services in the category denoted “Section 552(b) Research.”

20. Under this category, Farrell Fritz's services rendered on behalf of the Debtors during the Application Period included, among other things:

- Reviewing Debtors' documents and pleadings and performing legal research in connection with the IED motion and communicating with Piper through electronic mail, telephone and memoranda to discuss matters and issues concerning the IED motion and the Committee's objection.

PROPRIETY OF COMPENSATION SOUGHT

21. The Bankruptcy Court is authorized, pursuant to section 330 of the Bankruptcy Code, to award fees for services rendered and expenses incurred by attorneys and other professional persons representing debtors or official committees.

22. Section 330(a)(1) of the Bankruptcy Code provides that

After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, a consumer privacy ombudsman appointed under section 332, an examiner, an ombudsman appointed under section 333, or a professional person employed under section 327 or 1103—

- (A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, ombudsman, professional person, or attorney and by any paraprofessional person employed by any such person; and
- (B) reimbursement for actual, necessary expenses.

11 U.S.C. § 330(a).

23. "Reasonable compensation" is addressed in section 330(a)(3) of the Bankruptcy Code, and reads:

In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value

of such services, taking into account all relevant factors, including—

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

24. Farrell Fritz respectfully submits that the services it has rendered on behalf of the Debtors during the Application Period, as described in this Application and in Farrell Fritz's contemporaneously kept time records, which are attached as Exhibit "D," meet or exceed the standards set forth in section 330 of the Bankruptcy Code and applied by bankruptcy courts in this Circuit for determining the propriety of professional fees sought from the estate. Farrell Fritz further submits that the compensation requested herein is reasonable and is consistent with the nature and extent of the services rendered during the Application Period, the size and complexity of this case, the time, labor and special expertise brought to bear on the questions presented, and other related factors.

OUT-OF-POCKET EXPENSES INCURRED IN THIS CASE

25. Section 330(b) of the Bankruptcy Code allows the Court to reimburse Farrell Fritz for the “actual, necessary expenses” incurred in this case. 11 U.S.C. § 330(b). In the course of its representation of the Debtors during the Application Period, Farrell Fritz has incurred expenses, advancing all of the expenses that it is now seeking to have reimbursed. In total, Farrell Fritz has incurred actual expenses in the amount of \$12,473.81 in the rendering of services to the Debtors during the Application Period.

26. Farrell Fritz’s billing practice is to itemize fully all out-of-pocket expenses reasonably capable of itemization. This practice permits those firms to bill each client exclusively for the services actually incurred on behalf of the client. The customary billing policy of Farrell Fritz is to bill its clients only for the services incurred in the course of rendering legal services for that client. Such a billing policy permits each client to be billed only for the services that client has incurred, and avoids subsidizing clients using such services, at the expense of those who do not require them by building such costs into hourly rates.

27. The out-of-pocket expenses incurred by Farrell Fritz in rendering legal services to the Debtor during the Application Period are specifically broken down into categories identified in Exhibit “E.” The categories of out-of pocket expenses include, among other things, computerized legal research, postage, conference call charges, copying, calendar service (ECF), and travel of professionals in connection with meetings or hearings.

NO PRIOR REQUEST

28. Farrell Fritz has made no prior request for the relief sought herein to this or any other court.

CONCLUSION

29. Farrell Fritz respectfully submits that Farrell Fritz's request for final compensation in the sum of \$251,215.00, plus an additional estimated amount of \$5,000.00 for the preparation and filing of this Application, constitutes a fair and reasonable request for the quality and nature of the services performed. Farrell Fritz further submits that its request for reimbursement of out-of-pocket expenses in the amount of \$12,473.81 is fair and reasonable and that such sums were necessarily expended by Farrell Fritz in the performance of its responsibilities.

WHEREFORE, for all of the foregoing reasons, pursuant to sections 105(a) and 330 of the Bankruptcy Code, Farrell Fritz respectfully requests that this Court enter an order: (a) awarding Farrell Fritz allowance of compensation in the amount of \$251,215.00 and reimbursement of out-of-pocket expenses in the amount of \$12,473.81 for the Application Period, plus an additional estimated amount of \$5,000.00 for the preparation and filing of this Application, and directing payment of the foregoing sums and (b) granting Farrell Fritz such other and further relief as this Court deems just and proper.

Dated: Uniondale, New York
June 14, 2010

FARRELL FRITZ, P.C.

By: /s/ Ted A. Berkowitz.
Ted A. Berkowitz (*pro hac vice*)
Robert C. Yan (*pro hac vice*)
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*Attorneys for the Debtors and
Debtors In Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|---|---|-------------------------------|
| In re: | § | CASE NO. 09-37010 |
| | § | CHAPTER 11 |
| ERICKSON RETIREMENT | § | |
| COMMUNITIES, LLC, <i>et al.</i>,¹ | § | (Jointly Administered) |
| | § | |
| Debtors. | § | |

**COVER SHEET TO THE FIRST AND FINAL APPLICATION OF
FARRELL FRITZ, P.C. FOR ALLOWANCE OF FEES AND REIMBURSEMENT OF
EXPENSES AS COUNSEL FOR THE DEBTORS FOR THE PERIOD
NOVEMBER 19, 2009 THROUGH APRIL 30, 2010**

Applicant name: Farrell Fritz, P.C.

Role in case: Conflicts counsel to Debtors

Date of retention: November 19, 2009

Type of application: First and Final Fee Application

**Period for which compensation
and reimbursement is requested:** November 19, 2009 through April 30, 2010

**Amount of compensation
presently requested:** \$251,215.00

¹ The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, and Warminster Campus, LP.

| | |
|--|-------------------------|
| Amount of reimbursement of expenses presently requested: | \$12,473.81 |
| Additional estimated amount for the preparation and filing of this final fee application: | \$5,000.00 ² |
| Amount of compensation previously requested: | \$0.00 |
| Amount of reimbursement of expenses previously requested: | \$0.00 |
| Summary of time charges and disbursement charges: | See Exhibit C |
| Detailed listing of time charges: | See Exhibit D |
| Detailed listing of disbursement charges: | See Exhibit E |

² The estimated amount of \$5,000.00 for the preparation and filing of Farrell Fritz, P.C.'s First and Final Fee Application is not reflected in the description of fees and expenses attached to the Application, and is in addition to the \$251,215.00 in fees requested and the \$12,473.81 in expenses requested.

EXHIBIT

A

Ted A. Berkowitz (*pro hac vice*)
Robert C. Yan (*pro hac vice*)
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ryan@farrellfritz.com

*Attorneys for the Debtors and
Debtors In Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|---|---|-------------------------------|
| In re: | § | CASE NO. 09-37010 |
| | § | CHAPTER 11 |
| ERICKSON RETIREMENT | § | |
| COMMUNITIES, LLC, <i>et al.</i>,¹ | § | (Jointly Administered) |
| | § | |
| Debtors. | § | |

**CERTIFICATION IN SUPPORT OF THE FIRST AND FINAL APPLICATION OF
FARRELL FRITZ, P.C. FOR ALLOWANCE OF FEES AND REIMBURSEMENT OF
EXPENSES AS COUNSEL FOR THE DEBTORS FOR THE PERIOD
NOVEMBER 19, 2009 THROUGH APRIL 30, 2010**

I, Ted A. Berkowitz, on behalf of Farrell Fritz, P.C. (“Farrell Fritz” or “Applicant”), counsel to the debtors and debtors in possession in the above-captioned, jointly administered cases, hereby certifies, pursuant to the Guidelines for Compensation and Expense Reimbursement of Professionals (the “Guidelines”) promulgated by this Court, that:

1. I am the professional designated by Applicant with the responsibility for compliance with the Guidelines, and submit this Certification in support of the Application.

¹ The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, and Warminster Campus, LP.

2. I have read the Application, which covers the period from November 19, 2009 through and including April 30, 2010.

3. To the best of my knowledge, information and belief formed after reasonable inquiry, the compensation and expense reimbursement requested in the Application are in material conformity with the Guidelines.

4. The compensation and expense reimbursement requested in the Application are billed at rates and in accordance with practices customarily employed by Applicant and generally accepted by Applicant's clients.

5. I hereby certify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing statements are true and correct to the best of my knowledge.

Dated: Uniondale, New York
June 14, 2010

By: /s/ Ted A. Berkowitz
Ted A. Berkowitz (*pro hac vice*)



U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ENTERED
TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Hay G. C. Fung
United States Bankruptcy Judge

Signed February 22, 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|--|---|-------------------------|
| ----- | § | |
| In re: | § | CASE NO. 09-37010 (SGJ) |
| | § | |
| ERICKSON RETIREMENT | § | CHAPTER 11 |
| COMMUNITIES, LLC, <i>et al.</i> ¹ | § | |
| | § | Jointly Administered |
| Debtors. | § | |
| ----- | § | |

**ORDER AUTHORIZING THE EMPLOYMENT AND
RETENTION OF FARRELL FRITZ, P.C. TO PROVIDE CONFLICTS AND
OTHER COUNSEL TO THE DEBTORS, *NUNC PRO TUNC* TO NOVEMBER 19, 2009**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order pursuant to sections 327 and 328(a) of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), authorizing the Debtors to employ and retain Farrell Fritz, P.C. (“Farrell Fritz”) as their conflicts counsel, *nunc pro tunc* to November 19, 2009, all as more fully described in the Application; and upon consideration of the

¹ The Debtors in these chapter 11 cases are Erickson Retirement Communities, LLC, Ashburn Campus, LLC, Columbus Campus, LLC, Concord Campus GP, LLC, Concord Campus, LP, Dallas Campus GP, LLC, Dallas Campus, LP, Erickson Construction, LLC, Erickson Group, LLC, Houston Campus, LP, Kansas Campus, LLC, Littleton Campus, LLC, Novi Campus, LLC, Senior Campus Services, LLC, Warminster Campus GP, LLC, and Warminster Campus, LP.

² All capitalized terms not defined herein shall have the same meaning ascribed to term in the Application.

declaration of Ted A. Berkowitz, a partner of Farrell Fritz, annexed as Exhibit B to the Application (the “Berkowitz Declaration”); and the Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Application having been provided as reflected in the Application and certificates of service on file in these chapter 11 cases, and it appearing that no other or further notice need be provided; and a hearing (the “Hearing”) having been held to consider the relief requested in the Application; and upon the Court being satisfied based on the representations made in the Application and the Berkowitz Declaration that the partners, counsel and associates of Farrell Fritz who will be engaged in these chapter 11 cases represent no interest adverse to the Debtors’ estates with respect to the matters upon which Farrell Fritz is to be engaged and that they are disinterested persons as that term is defined under section 101(14) of the Bankruptcy Code, and the Court having found and determined that the relief sought in the Application is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and notice of the Application appearing to be adequate and appropriate under the circumstances; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Application is granted to the extent set forth herein; and it is further

ORDERED that pursuant to sections 327 and 328(a) of the Bankruptcy Code, the Debtors are authorized to employ and retain Farrell Fritz as their conflicts counsel, *nunc pro tunc* to

November 19, 2009, on the terms set forth in the Application, the Berkowitz Declaration, and that certain engagement letter attached hereto as Exhibit 1 (the “Engagement Letter”); and it is further

ORDERED that as conflicts counsel, Farrell Fritz will render professional services to the Debtors for certain discrete matters, which may include, but are not limited to, the following matters where DLA Piper LLP (US) (“Piper”) or other counsel for the Debtors, may not be able to act as a result of an actual or potential conflict of interest or where the Debtors, Piper, or other counsel to the Debtors, have requested that Farrell Fritz represents the Debtors:

- (a) advise the Debtors with respect to their powers and duties as debtors in possession in the continued management and operation of their business and properties;
- (b) attend meetings and negotiate with representatives of creditors and other parties in interest;
- (c) take necessary action to protect and preserve the Debtors’ estates, including prosecuting actions on the Debtors’ behalf, defending any action commenced against the Debtors and representing the Debtors’ interests in negotiations concerning litigation in which the Debtors are involved, including objections to claims filed against the estates;
- (d) prepare motions, applications, answers, orders, appeals, reports and papers necessary to the administration of the Debtors’ estates;
- (e) take any necessary action on behalf of the Debtors to obtain approval of a Disclosure Schedule and confirmation of one or more Chapter 11 plans;
- (f) represent the Debtors in connection with obtaining postpetition financing;
- (g) advise the Debtors in connection with any potential sale of assets;

- (h) advise the Debtors on the rights of offset and the applicability of the “safe harbor” provisions of the Bankruptcy Code;
- (i) appear before the Court, any appellate courts and the United States Trustee, and protect the interests of the Debtors’ estates before those Courts and the United States Trustee;
- (j) consult with the Debtors regarding tax matters; and
- (k) perform other necessary legal services and provide other necessary legal advice to the Debtors in connection with these cases, including (i) the analysis of the Debtors’ leases and executory contracts and the assumption, rejection or assignment thereof, (ii) the analysis of the validity of liens against the Debtors’ interests in property, and (iii) advice on corporate, litigation, employment, intellectual property, governmental investigatory, regulatory and environmental matters.

And it is further

ORDERED that Farrell Fritz shall be compensated in accordance with the procedures set forth in sections 330(a) and 331 of the Bankruptcy Code, the applicable provisions of the Bankruptcy Rules and the Local Rules, the Guidelines and such other procedures as may be fixed by order of this Court; and it is further

ORDERED that the Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application and the terms of any engagement letter executed by the Debtors and Farrell Fritz consistent with this Order as approved by the Court; and it is further

ORDERED that the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that the Court retains jurisdiction with respect to all matters arising from, or related to, the interpretation and implementation of this Order; and it is further

ORDERED that notice of the Application as provided herein shall be deemed good and sufficient notice of the Application.

###End of Order###

EXHIBIT C

FARRELL FRITZ, P.C.

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Uniondale, New York 11556-1320
Tel: (516) 227-0700
Fax: (516) 227-0777

*Attorneys for Debtors and
Debtors In Possession*

Date: November 19, 2009 through and including April 30, 2010

| TIMEKEEPER SUMMARY | | | | | |
|---------------------------|--------------|------------------------------|--|---------------------------------------|-------------------------|
| TIMEKEEPER | INIT. | YEAR OF ADMISSION | BILLING RATE PER HOUR¹ | HOURS EXPENDED² | DOLLAR VALUE |
| <i>Partner</i> | | | | | |
| Ted A. Berkowitz | TAB | 1984 | \$625 | 97.3 | 60,812.50 |
| | | | \$650 | 150.0 | 94,575.00 |
| Patrick T. Collins | PTC | 1996 | \$535 | 21.4 | 11,449.00 |
| | | | \$540 | 32.9 | 17,766.00 |
| Stephen F. Melore | SFM | 1988 | \$540 | 7.2 | 3,888.00 |
| | | | \$565 | 2.8 | 1,582.00 |
| Louis A. Scarcella | LAS | 1978 | \$625 | 1.2 | 750.00 |
| James M. Wicks | JMW | 1989 | \$525 | 0.7 | 367.50 |
| | | | | | |
| <i>Associate</i> | | | | | |
| Christine M. Hogan | CMH | 2009 | \$280 | 4.1 | 1,148.00 |
| Darren A. Pascarella | DAP | 2003 | \$360 | 36.5 | 13,140.00 |
| | | | \$395 | 10.8 | 4,266.00 |
| Robert C. Yan | RCY | 2002 | \$395 | 43.2 | 17,064.00 |
| | | | \$415 | 56.8 | 23,572.00 |
| | | | | | |
| <i>Clerk/Paralegal</i> | | | | | |
| Marjorie Petraro | MP | n/a | \$125 | 1.2 | 150.00 |
| Maria M. Siffert | MMS | n/a | \$260 | 2.5 | 650.00 |
| Theresa M. Spano | TMS | n/a | \$175 | 0.2 | 35.00 |
| | | | | | |
| Total | | | | 468.8 | 251,215.00 |

¹ Effective January 1, 2010, hourly rate increases were implemented as part of the firm's annual review of professional billing rates.

² The total of 9.0 hours attributable to non-working travel time in connection with these cases has been billed at one-half the customary hourly billing rate for the respective professional, as further detailed in the Summary of Charges Sorted By Task Category.

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*Attorneys for Debtors and
Debtors In Possession*

Date: November 19, 2009 through and including April 30, 2010

SUMMARY OF CHARGES SORTED BY TASK CATEGORY

0100 – Chapter 11 Bankruptcy Case

| Attorney | Billing Rate | Hours | Dollar Value |
|------------------------|---------------------|-------------------|---------------------|
| Ted A. Berkowitz | \$625 | 44.0 | 27,500.00 |
| Ted A. Berkowitz | \$650 | 58.2 ³ | 35,880.00 |
| Patrick T. Collins | \$535 | 1.7 | 909.50 |
| Patrick T. Collins | \$540 | 0.8 | 432.00 |
| Stephen F. Melore | \$540 | 1.4 | 756.00 |
| Stephen F. Melore | \$565 | 0.2 | 113.00 |
| Robert C. Yan | \$395 | 7.2 | 2,844.00 |
| Robert C. Yan | \$415 | 20.0 | 8,300.00 |
| Darren A. Pascarella | \$360 | 0.4 | 144.00 |
| Christine M. Hogan | \$280 | 4.1 | 1,148.00 |
| Clerk/Paralegal | Billing Rate | Hours | Dollar Value |
| Maria M. Siffert | \$260 | 1.9 | 494.00 |
| Theresa M. Spano | \$175 | 0.2 | 35.00 |
| Total | | 140.1 | 78,555.50 |

³ The total of 6.0 hours attributable to travel time in connection with these cases has been billed at one-half the customary hourly billing rate.

SUMMARY OF CHARGES SORTED BY TASK CATEGORY

(November 19, 2009 through and including April 30, 2010)

0101 – Recharacterization Adversary Proceedings

| Attorney | Billing Rate | Hours | Dollar Value |
|------------------------|---------------------|-------------------|---------------------|
| Ted A. Berkowitz | \$625 | 41.6 | 26,000.00 |
| Ted A. Berkowitz | \$650 | 91.8 ⁴ | 58,695.00 |
| Patrick T. Collins | \$535 | 13.0 | 6,955.00 |
| Patrick T. Collins | \$540 | 31.0 | 16,740.00 |
| Robert C. Yan | \$395 | 29.6 | 11,692.00 |
| Robert C. Yan | \$415 | 36.2 | 15,023.00 |
| Darren A. Pascarella | \$360 | 12.2 | 4,392.00 |
| Darren A. Pascarella | \$395 | 3.5 | 1,382.50 |
| Clerk/Paralegal | Billing Rate | Hours | Dollar Value |
| Marjorie Petraro | \$125 | 1.2 | 150.00 |
| Maria M. Siffert | \$260 | 0.6 | 156.00 |
| Total | | 260.7 | 141,185.50 |

0102 – Petition Date Set Off

| Attorney | Billing Rate | Hours | Dollar Value |
|----------------------|---------------------|--------------|---------------------|
| Ted A. Berkowitz | \$625 | 5.9 | 3,687.50 |
| Patrick T. Collins | \$535 | 1.8 | 963.00 |
| Patrick T. Collins | \$540 | 1.1 | 594.00 |
| Stephen F. Melore | \$540 | 5.8 | 3,132.00 |
| Stephen F. Melore | \$565 | 2.6 | 1,469.00 |
| Louis A. Scarcella | \$625 | 1.2 | 750.00 |
| Darren A. Pascarella | \$360 | 23.9 | 8,604.00 |
| Darren A. Pascarella | \$395 | 7.3 | 2,883.50 |
| Total | | 49.6 | 22,083.00 |

⁴ The total of 3.0 hours attributable to travel time in connection with these cases has been billed at one-half the customary hourly billing rate.

SUMMARY OF CHARGES SORTED BY TASK CATEGORY

(November 19, 2009 through and including April 30, 2010)

0103 – Section 552(b) Research

| Attorney | Billing Rate | Hours | Dollar Value |
|--------------------|---------------------|--------------|---------------------|
| Ted A. Berkowitz | \$625 | 5.8 | 3,625.00 |
| Patrick T. Collins | \$535 | 4.9 | 2,621.50 |
| James M. Wicks | \$525 | 0.7 | 367.50 |
| Robert C. Yan | \$395 | 6.4 | 2,528.00 |
| Robert C. Yan | \$415 | 0.6 | 249.00 |
| Total | | 18.4 | 9,391.00 |

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SUMMARY OF OUT-OF-POCKET EXPENSES

| <u>DESCRIPTION</u> | <u>AMOUNT</u> |
|---------------------------|------------------|
| Airfare | 4,599.57 |
| Calendar Service (ECF) | 177.60 |
| Computer / Legal Research | 2,695.32 |
| Conference Call Charge | 86.04 |
| Copying Expense | 786.60 |
| Federal Express | 104.62 |
| Filing Fees | 1,250.00 |
| Lunch/Dinner | 77.28 |
| Miscellaneous Expense | 163.50 |
| Other | 1,049.86 |
| Other – Lodging | 476.10 |
| Other – Miscellaneous | 58.00 |
| Other – Taxi | 125.00 |
| Postage | 26.10 |
| Toll Phone Telegram | 55.00 |
| Travel Nonmileage | 743.22 |
| | |
| TOTAL EXPENSES | 12,473.81 |