

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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<p>In Re:</p> <p>MORGAN ADMINISTRATION, INC., et al. d/b/a Home Owners Bargain Outlet,</p> <p style="padding-left: 40px;">Debtors and Debtors in Possession</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CHAPTER 11</p> <p>Case No. 18-30039 (Jointly Administered)</p> <p>Hon. Jacqueline P. Cox</p> <p>Hearing: December 10, 2019 at 9:30 a.m.</p>
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**NOTICE OF MOTION**

Please take notice that on December 10, 2019 at 9:30 a.m., my designee or I will appear before the Honorable Jacqueline P. Cox, or any judge sitting in her stead, in the Courtroom usually occupied by her in Courtroom 680, Everett McKinley Dirksen Federal Courthouse, 219 South Dearborn Street, Chicago, Illinois 60604 and shall then and there present the Application of Acuity for Allowance of Administrative Expense Priority Claim Pursuant to 11 U.S.C. § 503, a copy of which is attached.

Respectfully submitted,

KOHNER, MANN & KAILAS, S.C.

Attorneys for Acuity, a Mutual Insurance Company

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**IN THE UNITED STATES BANKRUPTCY COURT  
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EASTERN DIVISION**

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In Re:	)	CHAPTER 11
	)	
MORGAN ADMINISTRATION, INC., et al. d/b/a	)	Case No. 18-30039
Home Owners Bargain Outlet,	)	(Jointly Administered)
	)	
Debtors and Debtors in Possession	)	Hon. Jacqueline P. Cox

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**APPLICATION OF ACUITY FOR ALLOWANCE OF  
ADMINISTRATIVE EXPENSE PRIORITY CLAIM  
PURSUANT TO 11 U.S.C. § 503**

Acuity, a Mutual Insurance Company (“Acuity”), by its undersigned attorneys, requests allowance of its administrative expense claim, pursuant to 11 U.S.C. § 503, in the combined amount of \$464,123.26. In further support of this request, Acuity states as follows:

1. Debtors Morgan Administration, Inc., et al.<sup>1</sup> (“Debtors”) filed the Voluntary Petition, pursuant to Chapter 11 of the United States Bankruptcy Code (the “Code”), on October 25, 2018 (the “Petition Date”). Debtors are operating as Debtors in Possession.
2. Debtors entered into agreements with Acuity for insurance coverage including workers’ compensation and general liability (the “Agreements”).
3. The Agreements provide, under Section E regarding Final Premiums, that Debtors agree to pay a final premium which will be determined after the policy ends, by using actual, not

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1. The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Morgan Administration, Inc. (4200); Belvidere Associates LLC (8559); FP Retail Associates LLC (0915); Hillcrest Enterprises, LLC (4581); Jular Media LLC (0805); KLS Acquisition Corp. (0925); Loomis Enterprises LLC (5451); North Avenue Associates LLC (3329); Oak Creek Distribution LLC (0634); OL Enterprises LLC (9401); and Deforab LLC (9348).

estimated, premium basis and property classifications that apply to the business and work covered by the policy.

4. The Agreement provides, under Section G regarding Audits, that Acuity is to examine all of Debtors' records that relate to the policy, including ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records.

5. The terms of the Agreements give notice to Debtors that there will be future obligations which will not arise until after their policies end.

6. The parties entered into the Agreements with the understanding that Debtors would have obligations to Acuity that would continue after the term of each policy.

7. Debtors filed their voluntary petition for relief under Chapter 11 of the Code on October 25, 2018.

8. Acuity is not listed as a creditor on Debtors' bankruptcy schedules and Acuity was not provided with the pleadings in these bankruptcy proceedings.

9. Acuity continued to do business with Debtors, and provided insurance coverage to Debtors, after Debtors filed their bankruptcy petitions.

10. The Agreements did not expire until May 1, 2019.

11. The Agreements were canceled, at the request of the Debtors, on January 1, 2019 with notice of cancelation of the Agreements sent on January 24, 2019.

12. Acuity could not perform the audits of the Agreements (the "Audits") until after the Agreements were canceled. The Audits were not completed by Acuity until July of 2019.

13. The Audits resulted in new debt, as of July of 2019, owed by Debtors to Acuity, in the combined amount of \$464,123.26, as follows:

<u>Debtor Entity</u>	<u>Balance owed to Acuity for post-petition services</u>
Morgan Administration, Inc.	\$77,006.50
Belvidere Associates LLC	\$75,588.17
FP Retail Associates LLC	\$29,465.00
Hillcrest Enterprises, LLC	\$45,074.18
KLS Acquisition Corp.	\$82,580.35
Loomis Enterprises LLC	\$46,638.47
North Avenue Associates LLC	\$39,127.86
Oak Creek Distribution LLC	\$4,837.51
<u>OL Enterprises LLC</u>	<u>\$63,805.22</u>
TOTAL	\$464,123.26

14. The debt resulting from the Audits arose post-petition.

15. Debtors failed to make any payments to Acuity for the post-petition debts owed by Debtors to Acuity under the Agreements. The combined balance owed to Acuity of \$464,123.26 (the "Claim") remains unpaid.

16. Accordingly, the Claim of Acuity is for post-petition debt and the Claim did not arise until July of 2019, after the proof of claim deadline fixed by the Court.

17. The Notice of Confirmation and Effective Date of Joint Plan of Liquidation of Debtors, and Establishment of Bar Dates, dated October 16, 2019, provides that a claim, asserting a right to payment under Section 503(b) of the Bankruptcy Code for an administrative expense, not paid as of the Effective Date of Debtors' Plan, must be filed with the Court by November 14, 2019.

18. Based on the Claim having arose post-petition, and being for actual and necessary costs of preserving the estate, cause exists for the Claim to be allowed in full as an administrative expense claim under Sections 503(a); 503(b)(1)(A); and 507(a)(2) of the Code.

19. Section 503(a) of the Code permits creditors to “timely file a request for payment of an administrative expense.”

20. Debtors’ confirmed First Amended Joint Liquidating Plan provides, in Section (II)(B)(1), that Administrative Expense Claims that become Allowed Claims, are to be paid on or before a date that is thirty days from the date when an order deeming such Administrative Expense Claims as Allowed Claims becomes a final order.

21. Accordingly, the Claim of Acuity should be allowed in full, and allowed as an administrative priority claim, in the combined amount of \$464,123.26.

ACCORDINGLY, Acuity, A Mutual Insurance Company. respectfully requests that the Court enter an order for: (i) allowance of Acuity’s administrative expense claim pursuant to 11 U.S.C. § 503 in the combined amount of \$464,123.26; (ii) directing payment of Acuity’s administrative expense claim within thirty days of entry of an order approving this application; and (iii) granting such other relief as the Court deems just and appropriate.

Dated: November 14, 2019

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