

Hearing Date and Time: October 29, 2009 at 10:00 a.m. (ET)
Response Deadline: October 23, 2009 at 4:00 p.m. (ET)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : Chapter 11
Metaldyne Corporation, *et al.*, : Case No. 09-13412 (MG)
Debtors. : (Jointly Administered)
: :
-----X

**NOTICE OF HEARING ON MOTION OF
DEBTORS AND DEBTORS IN POSSESSION FOR
AN ORDER APPROVING AND AUTHORIZING THE ENGAGEMENT
OF LARRY CARROLL AS AN OFFICER OF EACH OF THE DEBTORS,
NUNC PRO TUNC AS OF OCTOBER 8, 2009, AND CERTAIN RELATED RELIEF**

PLEASE TAKE NOTICE THAT:

1. An expedited hearing to consider the motion filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors") on October 14, 2009 (the "Motion") seeking an order approving and authorizing the engagement of Larry Carroll as an officer of each of the Debtors, nunc pro tunc as of October 8, 2009, and certain related relief shall be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in Room 501 of the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004, on **October 29, 2009 at 10:00 a.m. (Eastern Standard Time)**.

2. Objections, if any, to the relief sought in the Motion must be made in writing, with two hard copies to Chambers, conform to the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the Southern District of New York and be filed with the Bankruptcy Court and must be served in accordance with the Administrative Order, Pursuant to Bankruptcy Rule 1015(c), Establishing Case Management and Scheduling Procedures in these cases (Docket No. 133) (the "Case Management Order") so as to be actually received by the parties on the General Service List and the Special Service List not later than **4:00 p.m. (Eastern Standard Time) on October 23, 2009** (the "Objection Deadline").

3. If no objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Court a final order substantially in the form attached to such Motion, which final order may be entered with no further notice or opportunity to be heard offered to any party.

4. Copies of the Motion, the Case Management Order and the Special Service List may be obtained from the Court's website at <http://ecf.nysb.uscourts.gov> or, free of charge, at www.bmcgroup.com/metaldyne.

Dated: October 14, 2009
New York, New York

Respectfully submitted,

/s/ Ryan T. Routh

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**UNITED STATES BANKRUPTCY COURT
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Metaldyne Corporation, *et al.*, : Case No. 09-13412 (MG)
Debtors. : (Jointly Administered)
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**MOTION OF DEBTORS AND DEBTORS IN POSSESSION FOR AN
ORDER APPROVING AND AUTHORIZING THE ENGAGEMENT
OF LARRY CARROLL AS AN OFFICER OF EACH OF THE DEBTORS,
NUNC PRO TUNC AS OF OCTOBER 8, 2009, AND CERTAIN RELATED RELIEF**

TO THE HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:

Metaldyne Corporation and 30 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession (collectively, the "Debtors"), respectfully represent as follows:

Background

1. On May 27, 2009 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). By an order entered on May 29, 2009, the Debtors' chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered. The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On June 4, 2009, the United States Trustee appointed, pursuant to section 1102 of the Bankruptcy Code, an official committee of unsecured creditors (Docket No. 129) (the "Creditors' Committee").

3. Metaldyne Corporation ("Metaldyne") is a wholly-owned subsidiary of Metaldyne Holdings LLC ("Metaldyne Holdings"), which, in turn, is a wholly-owned subsidiary of Asahi Tec Corporation ("Asahi Tec"), a Japanese corporation. RHJ International S.A. ("RHJI"), a corporation formed under the laws of Belgium and listed on the Euronext exchange, presently holds approximately 60.1% of the outstanding capital stock of Asahi Tec. Debtor MD Products Corp. ("MD Products") is a New York corporation. Metaldyne is the direct or indirect parent of MD Products, each of the other Debtors and each of the Debtors' nondebtor subsidiaries (collectively, the "Metaldyne Companies").

4. The Metaldyne Companies are leading global manufacturers of highly engineered metal components for the global light vehicle market, are market leaders for many of

the products they sell and are among the 50 largest auto parts suppliers in North America. The Metaldyne Companies operate through two business units, the Powertrain segment and the Chassis segment. The Metaldyne Companies' products are used in cars, vans, sport-utility vehicles, light trucks, heavy trucks and other vehicles. The Metaldyne companies provide content for the majority of the light vehicles manufactured in North America.

5. Prior to the Petition Date, after exploring a number of restructuring alternatives, the Debtors received interest from various parties in a purchase of certain of the assets of their Chassis segment and interest from other parties in a purchase of the majority of the assets of their Powertrain segment. Shortly after the Petition Date, the Debtors filed motions (Docket Nos. 214 and 323) to sell their powertrain and chassis assets and to establish an auction process or processes and bid procedures to consummate these sales and began the process of marketing their Balance Shaft Modules and Tubular business units for sale (collectively, the "Sale Processes"). The Sale Processes generated substantial interest in the Debtors' assets throughout June and July of 2009 and, ultimately, more than 10 parties submitted indications of interest and proposed asset purchase agreements for one or more of the Debtors' business units.

6. On August 5, 2009 and August 6, 2009, the Debtors held an auction (the "Auction"), pursuant to which MD Investors Corporation ("MD Investors") presented a bid for the assets, which included a cash component, a credit bid component and other consideration. On August 12, 2009, the Court entered an order (Docket No. 674) (the "Sale Order") authorizing the sale to MD Investors (the "MD Investors Transaction") of substantially all of the Debtors' assets free and clear of all liens, claims, interests and encumbrances. The Debtors anticipate that the MD Investors Transaction will close shortly (the "Closing").

7. For the fiscal year ended March 29, 2009, the Metaldyne Companies recorded annual revenue of approximately \$1.32 billion, of which approximately \$782 million was from sales of the Debtors. As of March 29, 2009, utilizing book values, the Metaldyne Companies had assets of approximately \$977 million and liabilities of approximately \$927 million. As of the Petition Date, the Metaldyne Companies have approximately 4,450 employees, of which approximately 2,500 are employees of the Debtors.

Jurisdiction

8. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

9. Pursuant to sections 105 and 363 of the Bankruptcy Code, the Debtors hereby seek an order approving and authorizing the engagement of Larry Carroll as an officer of each of the Debtors, on the terms and conditions set forth herein and in the employment agreement attached hereto as Exhibit 1 (the "Employment Agreement"), *nunc pro tunc* as of October 8, 2009, and the authority to appoint Mr. Carroll to such additional officer positions and/or as a director on one or more boards of directors of the Debtors as may become necessary or appropriate.

Facts Relevant to This Motion

10. Upon the closing of the sale of the majority of the Debtors' assets to MD Investors, the Debtors will focus their attention on winding down their remaining active operations, selling their remaining assets and obtaining the confirmation of a plan of liquidation by the Court. As part of the MD Investors Transaction, it is contemplated that several of the Debtors' key officers and directors may become employees of MD Investors or its subsidiaries.

As a result, the Debtors desire to put into place appropriate and effective management that will be responsible for executing the remaining tasks necessary to wind down the Debtors' remaining operations and obtain confirmation of a plan.

Current Officers and Directors of the Debtors

11. As of the date of this Motion, Thomas A. Amato and Terry Iwasaki serve as the directors on the majority of the Debtors' boards of directors, and Thomas A. Amato, Terry Iwasaki, Kimberly A. Kovac and David L. McKee serve as the officers of a majority of the Debtors.¹

12. Effective as of the closing of the MD Investors Transaction, it is contemplated that a number of the Debtors' current officers and employees – including some or all of the officers identified above – will become employees of MD Investors or its subsidiaries. It is not, however, contemplated that Mr. Carroll will become an employee of or consultant to MD Investors or its subsidiaries.

13. Given the status of these chapter 11 cases, the Debtors believe that appointing Mr. Carroll as the Vice President and Chief Liquidating Officer of each of the Debtors immediately, and having the authority to appoint him to such additional officer positions and/or as a director on one or more boards of directors of the Debtors as may become necessary or appropriate, is necessary to effectuate the orderly wind-down of the Debtors' remaining business operations after the Closing and prior to the effective date of a liquidating plan of reorganization. As such, the Board of Directors of Metaldyne Corporation authorized the appointment of Mr. Carroll as an officer and Metaldyne's entry into the Employment Agreement with Mr. Carroll at the Board's October 7, 2009 meeting.

¹ Certain of the Debtors have additional directors or more or fewer officers.

Proposed Employment of Larry Carroll

14. As noted above, the Debtors are beginning the process of winding down and liquidating their estates and remaining business operations and are also in the process of reviewing claims and preparing a plan and disclosure statement for filing after the Closing. Thus, the Debtors require an individual who has necessary experience to complete these tasks and who is familiar with the Debtors, their finances and records. Mr. Carroll was an employee of the Debtors from 2001 to May 2009, and has been working as a consultant for the Debtors since May of 2009. Immediately prior to his hiring as a consultant, Mr. Carroll was the Vice President of Finance for Metaldyne Corporation. Mr. Carroll graduated with a BS in Management from East Tennessee State University, majored in Finance and graduated with an MSM degree from Purdue University and has over 36 years of experience in the automotive industry. Mr. Carroll began his career in the automotive business with TRW in 1972 and spent 28 years in various positions at TRW, including as the group controller for a major division of the company. In 2001, Mr. Carroll came to Metaldyne as the Group Controller for Machining and Assembly for Metaldyne's chassis operations and held a similar position for the Debtors' powertrain operations before becoming the Vice President of Finance for Metaldyne in 2001. As a consultant since May of 2009, Mr. Carroll has assisted the Debtors with various high-level issues, including in negotiations regarding over \$170 million in equipment leases, and has been one of a handful of persons that senior management has utilized to assist with the overall management of the Debtors. Accordingly, because of his background in finance, his extensive experience in the automotive industry and experience with Metaldyne, Mr. Carroll is uniquely well suited to assist the Debtors in the winding down of their estates until such time as a plan can be confirmed.

15. Therefore, to ensure the Debtors have a knowledgeable officer tasked exclusively with managing and overseeing the winding down of their estates, the Debtors

propose to engage Mr. Carroll immediately. The Debtors propose to engage Mr. Carroll on the terms and conditions described below and in the Employment Agreement, as the Vice President and Chief Liquidating Officer of each of the Debtors, and propose to appoint him to other officer positions and/or as a director to one or more boards of directors of the Debtors as necessary or appropriate thereafter. Mr. Carroll's employment in this manner will assist the Debtors in completing the wind down of their estates until such time as a plan can be confirmed.

Terms of Mr. Carroll's Employment

16. The primary terms of the Mr. Carroll's employment include the following:²

- (a) **Duties:** Mr. Carroll will handle all matters pertaining to the winddown of the Debtors' estates including, but not limited to: (i) overseeing the Closing for the Debtors; (ii) managing any remaining businesses; (iii) winding-down any remaining businesses; (iv) divesting and monetizing owned real estate and real property of any remaining businesses; (v) managing and overseeing the Debtors' advisors; (vi) managing and directing employees of the Debtors' remaining operations after the Closing; (vii) working and negotiating with lessors to the applicable debtor entities; (viii) directing and overseeing claims resolution activities; (ix) managing the Debtors' obligations under any relevant transition services agreements; and (x) testifying in Court, if applicable, as needed in the Debtors' chapter 11 cases and otherwise fulfilling the duties of the debtor-in-possession.
- (b) **Position:** Mr. Carroll will be engaged as the Vice President and Chief Liquidating Officer of each of the Debtors effective immediately, and will be appointed to other officer positions and/or as a director on one or more boards of directors of the Debtors as necessary or appropriate thereafter.
- (c) **Effective Date:** Mr. Carroll's engagement will be approved *nunc pro tunc* as of October 8, 2009.
- (d) **Termination:** Mr. Carroll's employment will terminate automatically upon the earlier of: (i) the effective date of a confirmed plan of reorganization for the Debtors; (ii) the conversion of the Debtors' jointly administered chapter 11 bankruptcy case to a chapter 7 bankruptcy case; and (iii) the dismissal of the Debtors' chapter 11 proceeding. In addition, Mr. Carroll is an employee at-will of

² The summary of the terms of Mr. Carroll's employment contained herein is provided solely for the convenience of the Court and parties in interest and is not intended to modify the terms contained in the Employment Agreement in any respect.

the Debtors and the Debtors may terminate his employment at any time, with 15 days written notice. Mr. Carroll may likewise terminate his engagement for any or no reason at any time.

- (e) **Compensation:** Mr. Carroll will be paid \$25,000 per month, plus \$150.00 per hour for hours exceeding 48 hours per week, not to exceed an amount of \$1,800.00 per week, less all applicable state and federal withholdings as required by law.³ In addition, Mr. Carroll will be reimbursed for all out-of-pocket travel and business expenses. Mr. Carroll's compensation will be processed in accordance with the Debtors' normal procedures. Mr. Carroll will receive health benefits substantially similar to those generally provided by Debtors to employees (which benefits include health, life and disability benefits) but no retirement or other benefits.
- (f) **Additional Employees:** Mr. Carroll shall be permitted to hire employees (or retain existing Metaldyne employees) to assist him in his efforts.
- (g) **Director and Officer Liability Insurance:** Director and officer liability coverage will be kept in place for the duration of Mr. Carroll's engagement.

Argument

17. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor, "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). In general, the debtor may use property of the estate outside of the ordinary course of its business where the use of such property represents an exercise of the debtor's sound business judgment. See, e.g., Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); see also In re Martin, 91 F.3d 389, 395 (3d Cir. 1996) (citing Fulton State Bank v. Schipper (In re Schipper), 933 F.2d 513, 515 (7th Cir. 1991)).

18. Section 105(a) of the Bankruptcy Code empowers a court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the [Bankruptcy Code]." 11 U.S.C. § 105(a). Accordingly, bankruptcy courts frequently utilize their equitable powers under section 105(a) to authorize a debtor to take actions, such as those

³ As a consultant, Mr. Carroll has received compensation in the amount of \$22,000.00 per month. Thus, the compensation set forth herein and in the Employment Agreement represents only a small increase therefrom, which is appropriate due to the expanded nature of Mr. Carroll's duties.

requested here, that are consistent with the provisions of the Bankruptcy Code. See In re Aquatic Dev. Group, Inc., 352 F.3d 671, 680 (2d Cir. 2003) ("[t]he equitable power conferred on the bankruptcy court by section 105(a) is the power to exercise equity in carrying out the *provisions* of the Bankruptcy Code") (citing In re Dairy Mart Convenience Stores, Inc., 351 F.3d 86, 91 (2d Cir. 2003) (emphasis in original); In re Calpine Corp., 356 B.R. 585, 594 (S.D.N.Y. 2007) (stating that "the equitable powers of the bankruptcy court cannot be used to contravene the provisions of the Bankruptcy Code). Accordingly, an order under section 105(a) of the Bankruptcy Code is appropriate "to carry out" the provisions of the Bankruptcy Code.

19. In addition, courts in this and other jurisdictions have granted relief similar to the relief requested in this Motion pursuant to section 363(b) and section 105(a) of the Bankruptcy Code when approving the appointment of Chief Restructuring Officers or of other executive officers of a debtor. See In re Value City Holdings, Inc., Case No. 08-14197 (JMP) (Bankr. S.D.N.Y. Mar. 5, 2009) (authorizing, among other relief, the appointment of a chief wind-down officer pursuant to sections 105(a) and 363(b) of the Bankruptcy Code); In re Bally Total Fitness of Greater New York, Inc., Case No. 07-12395 (BRL) (Bankr. S.D.N.Y. Aug. 21, 2007) (authorizing, among other relief, the designation of a chief operating officer of the debtors pursuant to section 363 of the Bankruptcy Code); In re The Penn Traffic Co., Case No. 03-22945 (Bankr. S.D.N.Y. Sep. 17, 2003) (authorizing, pursuant to section 363 of the Bankruptcy Code, the retention of a chairman for the debtor's board of directors); In re Hayes Lemmerz Int'l, Inc., Case No. 09-11655 (MFW) (Bankr. D. Del. Jul. 7, 2009) (authorizing, among other relief, the designation of a chief restructuring officer of the debtors pursuant to section 363(b) of the Bankruptcy Code). Other courts have appointed officers charged with overseeing the liquidation process after the closing of a sale of most of a debtor's assets. See In re LTV Steel Co., Inc., Case

No. 00-43866 (Bankr. N.D. Ohio Jan. 6, 2006) (authorizing, among other relief, the engagement of a president and treasurer of certain of the debtors pursuant to sections 105(a) and 363(b) of the Bankruptcy Code).⁴

20. For the reasons set forth herein, the Debtors submit that the engagement of Mr. Carroll as contemplated herein is warranted to assist in the winddown of the Debtors' estates until such time as a plan can be confirmed and become effective. The Employment Agreement ensures that the Debtors will have a knowledgeable officer in place now and permits that Mr. Carroll's responsibilities be expanded as appropriate depending upon which current Metaldyne officers and directors ultimately are employed by MD Investors. Having Mr. Carroll in place as an officer of the Debtors prior to the Closing provides them with an officer that has no potential or perceived conflict of interest, as there is no contemplation that Mr. Carroll would serve as an employee or consultant for MD Investors post-Closing. This fact makes Mr. Carroll well-qualified to participate or direct in the negotiation of the terms of agreements with MD Investors, such as transition services agreements, and he has in fact begun to do so. For this reason and the other reasons set forth above, the authorization and approval of the Debtors' engagement of Mr. Carroll as set forth herein represents an appropriate exercise of the Debtors' sound business judgment and is in the best interests of their estates and creditors.

Nunc Pro Tunc Approval

21. To permit Mr. Carroll to perform his duties that have arisen and will arise immediately prior to the Closing, and to ensure that management is in place immediately following the Closing, the Debtors believe that it is necessary and appropriate for the relief requested herein to be effective *nunc pro tunc* as of October 8, 2009. As noted above,

⁴ Copies of the unreported orders cited herein are attached hereto collectively as Exhibit 2 and are incorporated herein by reference.

Mr. Carroll was assisting the Debtors with many, but not all, of the duties that he would perform as Chief Liquidating Officer throughout the cases in his role as a consultant.

Waiver of Stay

22. To permit the Debtors to implement the relief requested in this Motion as quickly as possible given that the Closing will have already occurred by the time this Motion will be heard, the Debtors believe that it is necessary and appropriate that any order approving this Motion be effective upon entry and provide for the express waiver of the stay imposed under Rule 6004(h) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to the extent it may be applicable.⁵ Waiver is appropriate where, as here, the debtor has a reasonable business justification for the request of such waiver. See Yamaha Motor Corp., USA v. Perry Hollow Mgmt. Co., Inc. (In re Perry Hollow Mgmt. Co., Inc.), 297 F.3d 34, 41 (1st Cir. 2002) (affirming bankruptcy court's decision to waive the 10-day period of Bankruptcy Rule 6004(g) (now Bankruptcy Rule 6004(h)) where the debtor presented evidence of a reasonable business justification for such waiver).

⁵ Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise."

Notice

23. Pursuant to the Administrative Order, Pursuant to Rule 1015(c) of the Federal Rules of Bankruptcy Procedure, Establishing Case Management and Scheduling Procedures (Docket No. 133) (the "Case Management Order"), entered on June 5, 2009, notice of this Motion has been given to the parties identified on the Special Service List and the General Service List (as such terms are defined in the Case Management Order). The Debtors submit that no other or further notice need be provided.

No Prior Request

24. No prior request for the relief sought in this Motion has been made to this or any other court in connection with these chapter 11 cases.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit 3 approving and authorizing, pursuant to sections 363(b) and 105(a) of the Bankruptcy Code, the engagement of Larry Carroll as an officer of each of the Debtors on the terms set forth herein and in the Employment Agreement, *nunc pro tunc* as of October 8, 2009, and granting the Debtors the authority to appoint Mr. Carroll to such additional officer positions and/or as a director on one or more boards of directors of the Debtors as may become necessary or appropriate under the circumstances.

Dated: October 14, 2009
New York, New York

Respectfully submitted,

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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT 1

EMPLOYMENT AGREEMENT

This **EMPLOYMENT AGREEMENT** ("Agreement"), dated as of October 8th, 2009, between Larry Carroll, whose address is 17590 White Pine Ct, Northville, MI 48168 ("Employee") and Metaldyne Corporation ("Metaldyne"), on behalf of itself and its U.S. subsidiaries (collectively, the "Debtors").

BACKGROUND

A. The Debtors filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code.

B. The Debtors intend to sell substantially all of their assets to MD Investors Corporation (the "Sale") subject to the Asset Purchase Agreement dated August 7, 2009, with the exception of certain assets of the Debtors, including but not limited to the Debtors' facilities located in Middleville, Michigan, Farmington Hills, Michigan, Plymouth, Michigan (47603 Halyard Drive), Niles, Illinois, New Castle, Indiana, Bedford Heights, Ohio, Solon, Ohio, and Rome, Georgia and a non-Debtor facility in Thamesville, Ontario (Canada) (collectively, the "Remaining Business").

C. Prior to the date hereof, Employee acted as a consultant to the Debtors and has been assisting the Debtors in, among other things, efforts to close the Sale.

D. The Debtors desire to secure the continued services of Employee, as an employee, to manage such matters and make such decisions of regarding the Debtors' business, reorganization and liquidation as delegated by the Debtors' board, officers and/or management including decisions with respect to the wind-down of the Remaining Business, the divestiture and monetization of owned real estate and personal property of the Remaining Business, and other matters involved in the fulfillment of the duties of the debtor-in-possession.

NOW, THEREFORE, intending to be legally bound, and in consideration of the mutual promises and representations set forth in this Agreement, the Debtors and Employee agree as follows:

ARTICLE I. - EMPLOYMENT, DUTIES AND TERM

1.01 Employment. The Debtor agrees to employ Employee, and Employee accepts employment with the Debtors, to serve as an executive officer of Metaldyne Corporation or other capacity as determined by each of the Debtors' Board of Directors or other governing body. Employee and the Debtors agree that unless sooner terminated pursuant to Article III of this Agreement, Employee's employment with the Debtors will be for a term commencing on the date hereof and ending on the earlier to occur of (x) the effective date of a confirmed plan of reorganization for the Debtors, (y) the conversion of the Debtors' jointly administered Chapter 11 bankruptcy case to a Chapter 7 bankruptcy case and (z) the dismissal of the Debtors' Chapter 11 proceeding (the "Employment Term").

1.02 Duties and Responsibilities. From the date hereof Employee shall act as Vice

President and Chief Liquidating Officer of each of the Debtors and/or such other positions as determined from time to time by the Debtors' Board of Directors or Chairman of the Board or other governing body and shall have the responsibilities as are customary for the position (or positions) held by Employee and for those matters and decisions delegated to Employee by the board and/or officers or management of the Debtors. In such capacity, the services of Employee may include the services described in Schedule 1 and such other services to the Debtors and its subsidiaries as are customary for the position (or positions) held by Employee and Employee shall have the responsibilities as are customary for the position (or positions) held by Employee, and as may be set forth in the Debtors' Bylaws or other organizational documents, and as may be directed by the Debtors' Board of Directors or Chairman of the Board or other governing body. During the Employment Term, Employee shall devote substantially all his time, ability and attention, and his best efforts, to the business of the Debtors and the duties of the Debtors as debtors-in-possession.

ARTICLE II. - COMPENSATION

2.01 Compensation. Subject to Article III of this Agreement, as compensation for services hereunder and in consideration for the protective covenants set forth in Article IV of this Agreement, the Employee shall be entitled to a salary in the amount of Twenty-Five Thousand and 00/00 (\$25,000) Dollars per month (the "**Salary**"), payable in accordance with the Debtors' normal procedures for compensating employees, plus \$150.00 Dollars per hour for hours exceeding forty-eight (48) hours per week, not to exceed an amount of \$1,800 per week, less all applicable state and federal withholdings as required by law. Employee shall receive health benefits substantially similar to those generally provided by Debtors to employees and Employee acknowledges and agrees that Company will not provide Employee any other benefits including but not limited to retirement benefits.

2.02 Expiration of Employment Term. Subject to Section 3.01 of this Agreement, upon the expiration of the Employment Term, Employee shall be entitled to receive any and all remaining amounts due as Salary for services provided through the expiration or termination date with 15 days written notice.

2.03 Expenses. During the Employment Term, the Debtors shall pay or reimburse Employee for all reasonable travel and other business expenses actually and necessarily incurred or paid by him in connection with his performance under this Agreement in accordance, with the Debtors' reimbursement policies and upon submission of satisfactory documentary evidence thereof.

ARTICLE III. - TERMINATION

3.01 Employee Election. In the event Employee elects to terminate his employment under this Agreement for reasons other than death or permanent disability, the Salary payable pursuant to Article II hereof shall terminate effective on the date of Employee's termination of his employment.

3.02 Termination by Debtors. Employee acknowledges that he is an employee at-will and the Debtors may terminate Employee's employment at any time, with 15 days written notice.

ARTICLE IV. - CONFIDENTIALITY AND WORK PRODUCT

4.01 Confidential Information. Employee acknowledges and agrees that the information, observations and data (including without limitation trade secrets, know-how, research and product plans, customer lists, customer pricing, customer rebates, software, inventions, processes, formulas, technology, designs, drawings, specifications, marketing and advertising materials, distribution and sales methods and systems, sales and profit figures and margins and other technical or business information and strategies, analyses, marketing and advertising plans and strategies, and information concerning acquisition opportunities and targets anywhere in the United States in or reasonably related to any of the Debtors' business or industry) disclosed or otherwise revealed to him, or discovered or otherwise obtained by him or of which he became or becomes aware, directly or indirectly, at any time prior to the date hereof or during the course of Employee's employment concerning the business or affairs of any of the Debtors ("**Confidential Information**") are the property of the Debtors. Employee agrees that he shall not use for his own purposes or disclose to any third party any of such Confidential Information without the prior written consent of the Debtors' Board of Directors or other governing body, unless and to the extent that (i) disclosure of such Confidential Information is necessary to perform Employee's duties hereunder, (ii) any of the Confidential Information becomes generally known to and available for use by the public other than as a result of Employee's acts or omissions or (iii) disclosure of such Confidential Information is required by applicable law (provided that the Employee shall give prompt advance written notice of such requirement to the Debtors to enable the Debtors to seek an appropriate protective order or confidential treatment). Employee agrees to deliver to the Debtors at the termination of Employee's employment, or at any other time the Debtors may request, all memoranda, notes, plans, records, reports, documents and other materials (and copies thereof and electronic versions of such materials) relating to the Confidential Information, and to deliver together therewith any computers or devices owned by the Debtors that may contain such materials, that Employee may then possess or have under his control, and agrees to destroy and not to retain any memoranda, notes, plans, records, reports, documents and other materials (and copies thereof and electronic versions of such materials) relating to Confidential Information to the extent contained in any computers or devices not owned by the Debtors (including Employee's home and personal computers). Employee hereby represents and warrants that Employee shall not use any confidential information or trade secrets of any third party in connection with the performance of his duties hereunder.

4.02 Inventions and Patents. Employee acknowledges and agrees that all Work Product (as defined below) is the property of the Debtors. Therefore, Employee hereby assigns to the Debtors all right, title and interest to all patents and patent applications, all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (in each case whether or not patentable or reduced to practice), including, without limitation, all computer software and software plans and designs, all copyrights and copyrightable works, all trade secrets, confidential information and know-how, and all other intellectual property rights that are or were conceived, reduced to practice, developed or made by Employee during his employment with the Debtors and that (a) relate to any of the Debtors' actual or anticipated business, research and development or existing or future products or services or (b) are or were conceived, reduced to practice, developed or made using any of equipment, supplies, facilities, assets or resources of any of the Debtors (including but not limited to, any intellectual property rights) (collectively, the "**Work Product**").

ARTICLE V. - MISCELLANEOUS

5.01 Notices. All notices required or permitted hereunder shall be made in writing by hand-delivery, certified or registered first-class mail, facsimile transmission or air courier guaranteeing overnight delivery to the other party at the addresses set forth above or to such other address as either of such parties may designate in a written notice served upon the other party in the manner provided herein. All notices required or permitted hereunder shall be deemed duly given and received when delivered by hand, if personally delivered; on the fifth (5th) day next succeeding the date of mailing if sent by certified or registered first-class mail, when received if sent by facsimile transmission, and on the next business day, if timely delivered to an air courier guaranteeing overnight delivery.

5.02 Severability. It is the intention of the parties that the provisions contained herein shall be enforceable to the fullest extent permissible under applicable law, but that the unenforceability (or modification to conform to such law) of any provision or provisions hereof shall not render unenforceable, or impair, the remainder hereof. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, either in whole or in part, be held invalid or unenforceable by a court of competent jurisdiction, this Agreement shall be deemed amended to delete or modify, as necessary, the offending provision or provisions and to alter the bounds thereof in order to render it valid and enforceable; but in such event the affected provisions of this Agreement shall be curtailed and restricted only to the extent necessary to bring them within the applicable legal requirements, and the remainder of this Agreement shall not be affected.

5.03 Applicable Law; Jurisdiction. Each party irrevocably submits to the exclusive jurisdiction of the United States Bankruptcy Court for the Southern District of New York for purposes of any action, suit or other proceeding arising out of this Agreement or any transaction contemplated hereby. The parties have agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan without giving effect to conflict of law principles.

5.04 Headings. The headings used throughout this Agreement have been used for convenience only and do not constitute matter to be considered in interpreting this Agreement.

5.05 Acknowledgment. The parties acknowledge and agree that this Agreement contains the entire agreement and understanding concerning the subject matter covered by this Agreement, and that this Agreement supersedes and replaces any other existing agreement, whether written or oral, entered into between Employee and the Debtors relating generally to the subject matter covered by this Agreement.

5.06 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signatories had signed the same document.

[Signature page follows.]

AGREED TO AND ACKNOWLEDGED the day and year set forth above.

EMPLOYEE

Larry Carroll
Larry Carroll

COMPANY

Metaldyne Corporation on behalf of itself
and its U.S. subsidiaries

Kimberly A. Kovac
By: Executive Vice President
Its: Kimberly A. Kovac

SCHEDULE 1

- Oversee closing activities of the sale of most of the Debtor's assets to MDI on behalf of the estate; oversee all post-closing activities.
- Oversee the development and implementation of the RemainCo budget. Oversee RemainCo's operations and winddown on behalf of the Debtors.
- Manage and oversee the activities of the Estate's advisors.
- Oversee the completion, negotiation and confirmation of a Plan of Reorganization for the Debtors.
- Hire any specialists to assist with divestitures of the Estate's assets, such as equipment brokers or real estate brokers, as needed and subject, if applicable to approval of the Bankruptcy Court.
- Manage the operations of the production agreements anticipated for the Niles aluminum die casting operation, the Middleville machining operation, the Greensboro machining operation, and if applicable the Twinsburg aluminum die casting operation and the subsequent winddown of such facilities.
- Oversee the wind down activities related to Thamesville, Ontario.
- Manage and direct any employees that remain in RemainCo; address any RemainCo employment issues.
- Manage the Debtors' obligations and rights under the Transition Services Agreement and the Greensboro Agreement, both between the Debtors and MDI, including overseeing cash application activities.
- Work and negotiate with any Lessors of applicable Debtor entities.
- Be available to the stakeholders of the Estate, such as the Unsecured Creditors Committee or MD Investors from time to time as requested by these stakeholders to update on performance and activities of the Debtor.
- Direct and oversee claims resolution activities, including without limitation resolution and payment of allowed administrative claims.
- Testify in Court, if applicable, as needed in the Debtors' chapter 11 cases, including in connection with confirming the Plan of Reorganization.
- Direct, oversee and address all other post-closing matters related to the Debtors' estates not specifically enumerated herein.

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re : Chapter 11
 :
Value City Holdings, Inc., et al., : Case No. 08-14197 (JMP)
 :
 :
Debtors. : (Jointly Administered)
-----X

**ORDER, PURSUANT TO SECTIONS
105(a) AND 363(b) OF THE BANKRUPTCY CODE, AUTHORIZING
THE DEBTORS TO: (A) RETAIN CLINGMAN & HANGER
MANAGEMENT ASSOCIATES, LLC, *NUNC PRO TUNC* TO
JANUARY 29, 2009, TO PROVIDE THE DEBTORS'
CHIEF WIND-DOWN OFFICER AND ADDITIONAL PERSONNEL;
AND (B) APPOINT W. EDWARD CLINGMAN, JR. CHIEF WIND-DOWN OFFICER**

Upon the motion (the "**Motion**") of the debtors and debtors in possession in the above-captioned cases (collectively, the "**Debtors**"), for entry of an order, pursuant to sections 105(a) and 363(b) of title 11 of the United States Code (the "**Bankruptcy Code**"), authorizing the Debtors to: (a) retain Clingman & Hanger Management Associates, LLC ("**C&H**") to provide the Debtors' Chief Wind-Down Officer ("**CWO**") and additional personnel necessary to assist the CWO in managing the wind-down of the Debtors' businesses (together with the CWO, the "**C&H Personnel**"), *nunc pro tunc* to January 29, 2009; and (b) appoint W. Edward Clingman, Jr. CWO; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of these estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED that

1. The Motion is granted to the extent set forth herein.
2. Capitalized terms used but not defined herein shall have the meanings

ascribed to such terms in the Motion.

3. Pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, the Debtors are authorized to employ C&H, *nunc pro tunc* to January 29, 2009 and, to the extent such approval is required, the Debtors' appointment of W. Edward Clingman as CWO is approved.

4. C&H shall be entitled to compensation and reimbursement of expenses as set forth in the Motion, to be paid by the Debtors in the ordinary course of their business without further order from this Court; provided, however, that C&H shall file with this Court, and submit to the U.S. Trustee and counsel to the official creditors' committee appointed in these cases, quarterly statements for services rendered and expenses incurred as described in the Motion. Such statements will also set forth all relevant staffing information, including the names and functions of C&H Personnel who provided services to the Debtors during the applicable period. Upon C&H's filing of its quarterly statement with the Court, parties in interest shall have the right to object to such fees and expenses paid; provided, however, that any such objection must be filed within thirty-five (35) days of the filing of the quarterly statement. In addition, C&H's compensation shall be subject to final approval of the Court based on reasonableness.

5. Any communications between Debtors' counsel and the C&H Personnel that would be subject to attorney-client privilege if between Debtors' counsel and the Debtors shall be subject to attorney-client privilege.

6. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

7. The CWO shall be entitled to the benefit of the indemnification provided by the Debtors to their officers and directors under the Debtors' respective by-laws, certificates of incorporation and other applicable organizational documents.

8. The Debtors shall indemnify, hold harmless and defend C&H against all claims, liabilities, losses, damages, and reasonable expenses as they are incurred, including reasonable legal fees and disbursements of counsel and the costs of professional time (at C&H's customary rates as set forth in the Motion) relating to the retention of C&H, including any legal proceeding in which C&H may be required or agree to participate but in which it is not a party, provided, however, that in no event shall C&H be indemnified in the case of its own gross negligence, willful misconduct or bad faith.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
March 5, 2009

/s/ James M. Peck
THE HONORABLE JAMES M. PECK
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	Chapter 11
)	
BALLY TOTAL FITNESS OF)	
GREATER NEW YORK, INC., <u>et al.</u> ,)	Case No. 07-12395 (BRL)
)	
Debtors.)	Jointly Administered
)	

**ORDER AUTHORIZING THE EMPLOYMENT
OF AP SERVICES, LLC AS CRISIS MANAGERS TO THE
DEBTORS AND THE DESIGNATION OF
MICHAEL FEDER AS CHIEF OPERATING OFFICER**

“AP SERVICES RETENTION FINAL ORDER”

Upon consideration of the application¹ (the “**Application**”) of the Debtors² (i) for entry of an interim order (the “**Interim Order**”) authorizing the employment of AP Services, LLC (“**APS**”) as crisis managers to the Debtors and the designation of Michael Feder as Chief Operating Officer of Bally Total Fitness Holding Corporation (“**Bally**”) on an interim basis, effective as of the Petition Date (as defined below), pursuant to section 363 of the Bankruptcy Code, (ii) for the scheduling of a final hearing (the “**Final Hearing**”) to consider entry of a final

¹ Capitalized terms used but not defined herein shall have the same meanings ascribed to them in the Application.

² The Debtors in these proceedings are: Bally Total Fitness of Greater New York, Inc., Bally Total Fitness Holding Corporation, Bally Total Fitness Corporation, Bally ARA Corporation, Bally Fitness Franchising, Inc., Bally Franchise RSC, Inc., Bally Franchising Holdings, Inc., Bally Real Estate I LLC, Bally REFS West Hartford, LLC, Bally Sports Clubs, Inc., Bally Total Fitness Franchising, Inc., Bally Total Fitness International, Inc., Bally Total Fitness of California, Inc., Bally Total Fitness of Colorado, Inc., Bally Total Fitness of Connecticut Coast, Inc., Bally Total Fitness of Connecticut Valley, Inc., Bally Total Fitness of Minnesota, Inc., Bally Total Fitness of Missouri, Inc., Bally Total Fitness of Philadelphia, Inc., Bally Total Fitness of Rhode Island, Inc., Bally Total Fitness of the Mid-Atlantic, Inc., Bally Total Fitness of the Midwest, Inc., Bally Total Fitness of the Southeast, Inc., Bally Total Fitness of Toledo, Inc., Bally Total Fitness of Upstate New York, Inc., BTF Cincinnati Corporation, BTF Europe Corporation, BTF Indianapolis Corporation, BTF Minneapolis Corporation, BTF/CFI, Inc., BTFCC, Inc., BTF Corporation, Greater Philly No. 1 Holding Company, Greater Philly No. 2 Holding Company, Health & Tennis Corporation of New York, Holiday Health Clubs of the East Coast, Inc., Holiday/Southeast Holding Corp., Jack La Lanne Holding Corp., New Fitness Holding Co., Inc., Nycon Holding Co., Inc., Rhode Island Holding Company, Tideland's Holiday Health Clubs, Inc., and U.S. Health, Inc.

order (the “**Final Order**”) authorizing the employment of APS as crisis managers to the Debtors and the designation of Michael Feder as Chief Operating Officer of Bally, effective as of the Petition Date and (iii) for entry of the Final Order; and upon the declaration of Michael Feder (the “**Feder Declaration**”); and the Court being satisfied based on the representations made in the Application and the Feder Declaration that APS has no adverse interest as that term is used in the Bankruptcy Code; and it appearing that the relief requested is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and upon the Affidavit of Don R. Kornstein, Interim Chairman and Chief Restructuring Officer of Bally Total Fitness Holding Corporation, in Support of First Day Motions (the “**First Day Affidavit**”), filed contemporaneously with the Motion; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this Application is a core proceeding pursuant to 28 U.S.C. § 157; and adequate notice of the Application and opportunity for objection having been given; and it appearing that no other notice need be given; and the Court having entered the Interim Order on August 1, 2007; and after due deliberation and sufficient cause therefor, it is hereby:

1. ORDERED that the Application is granted in its entirety on a final basis; and it is further

2. ORDERED that, in accordance with section 363 of the Bankruptcy Code, the Debtors are authorized to employ and retain APS as crisis managers to the Debtors and to designate Michael Feder as Chief Operating Officer of Bally, on an interim basis on the terms set forth in the Application, the Engagement Letter and the Feder Declaration, effective as of the Petition Date; and it is further

3. ORDERED that, in a manner consistent with the Application, the Engagement Letter and the Feder Declaration:

- (i) APS may render crisis management services to the Debtors;
- (ii) APS may provide Temporary Employees to the Debtors to assist the Debtors in their restructuring efforts;
- (iii) Michael Feder may serve as Bally's Chief Operating Officer, under the direct supervision of Bally's Chief Restructuring Officer; and
- (iv) working collaboratively with the Debtors' senior management team, Boards of Directors and the Debtors' other professionals, Mr. Feder and APS may assist the Debtors in evaluating and implementing strategic and tactical options through the restructuring process; and it is further

4. ORDERED that, notwithstanding anything in the Application, the Feder Declaration or the Engagement Letter, the definition, parameters, and size of any Success Fee shall be determined, when earned, based on reasonableness, after application and notice to all parties-in-interest and hearing before the Court, shall be subject to separate order of this Court, and all objections of all parties in interest are preserved until such time; and it is further

5. ORDERED that APS and its personnel shall be required to: (i) maintain contemporaneous time records in tenth of an hour increments or (ii) provide or conform to any schedule of hourly rates contained in the Engagement Letter, and it is further

6. ORDERED that APS is not required to submit fee applications pursuant to sections 330 and 331 of the Bankruptcy Code, but will instead submit monthly invoices to the Debtors, and the Debtors are hereby authorized to pay, in the ordinary course of its business, all reasonable amounts invoiced by APS for fees and expenses; and it is further

7. ORDERED that APS shall submit to the Court, with copies to (i) Latham & Watkins LLP, Counsel for the Debtors, Sears Tower, Suite 5800, 233 S. Wacker Drive, Chicago, IL 60606, Attn: David S. Heller; (ii) Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, NY 10004, Attn: Tracey Hope Davis; (iii) Simpson Thacher & Bartlett LLP, Counsel for the pre-petition agent, 425 Lexington Avenue, New York, NY 10017, Attn: J.T. Knight; and (iv) Akin Gump Strauss Hauer & Feld LLP, Counsel for the Prepetition Noteholders Committee, 590 Madison Avenue, New York, NY 10022, Attn: David H. Botter, quarterly reports of compensation earned, and parties in interest in these Chapter 11 Cases shall have the right to object to fees paid and expenses reimbursed to APS within 20 days after APS files such reports; and it is further

8. ORDERED that the first quarterly report of compensation earned by APS shall be submitted by APS no later than 45 days after the end of the first calendar quarter after the Petition Date, which shall cover the period to and including the last day of the first quarter after the Petition Date, and this procedure shall continue at three month intervals thereafter; and it is further

9. ORDERED that, notwithstanding anything in the Application, the Feder Declaration or the Engagement Letter, the Debtors shall only indemnify those APS employees serving as executive officers of the Debtors on the same terms as provided to the Debtors' other officers and directors under the Debtors' bylaws and applicable state law, along with insurance coverage under the Debtors' D&O policies, and the indemnification provisions of the Engagement Letter shall not apply to APS; and it is further

10. ORDERED that to the extent that there may be any inconsistency between the terms of the Application, the Engagement Letter or this Order, the terms of this Order shall govern; and it is further

11. ORDERED that the requirement set forth in Rule 9013-(b) of the Local Bankruptcy Rules for the Southern District of New York that any motion or other request for relief be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived; and it is further

12. ORDERED that this Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: August 21, 2007
New York, New York

/s/Burton R. Lifland
United States Bankruptcy Judge

Kelley A. Cornish (KC/0754)
Erica G. Weinberger (EW/1411)
Marc F. Skapof (MS/5746)
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019-6064
Telephone: (212) 373-3000

Attorneys for Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re

THE PENN TRAFFIC COMPANY, et al.,

Debtors.

Chapter 11 Case No. 03-22945 (ASH)

(Jointly Administered)

**ORDER PURSUANT TO 11 U.S.C. § 363 AUTHORIZING
PENN TRAFFIC TO ENTER INTO AN AGREEMENT
TO RETAIN JAMES A. DEMME AS CHAIRMAN OF
PENN TRAFFIC'S BOARD OF DIRECTORS**

Upon the Motion (docket number 314) dated September 5, 2003 (the "Motion")¹ of The Penn Traffic Company ("Penn Traffic"), a debtor and debtor-in-possession in the above-captioned cases, for entry of an order authorizing Penn Traffic to enter into an agreement to retain James A. Demme as Chairman of Penn Traffic's Board of Directors, pursuant to 11 U.S.C. § 363; and the Motion having been provided to (i) the Office of the United States Trustee for this district; (ii) counsel to the agent for the Debtors' prepetition and postpetition secured lenders; (iii) the Indenture Trustee; (iv) counsel for the Committee; and (v) the parties requesting special notice pursuant to Bankruptcy Rule 2002; and it appearing that no other or further notice is

necessary; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; and upon the record herein; and after due deliberation thereon; and good and sufficient cause having appearing therefor, it is hereby

ORDERED, that the Motion be, and hereby is, granted; and it is further

ORDERED, that Penn Traffic be, and it hereby is, authorized to enter into the Agreement (a copy of the Agreement is attached hereto as Exhibit A.), and to retain James A. Demme as Chairman of Penn Traffic's Board of Directors (the "Executive") on the terms and conditions set forth in the Agreement and to pay to the Executive the amounts set forth therein on the terms and conditions set forth therein; and it is further

ORDERED, that all compensation and benefits due to, and other rights of, the Executive under the Agreement, shall be treated in the Debtors' chapter 11 cases as allowed administrative expenses under section 503 of the Bankruptcy Code; and it is further

ORDERED, that in the event that Penn Traffic receives any written notice from Executive pursuant to Section 5 of the Agreement (a "Notice"), Penn Traffic shall deliver a copy of any such Notice to be received within five (5) days of the Debtors' receipt thereof by counsel to (i) Kaye Scholar LLP, 425 Park Avenue, New York, New York 10022-3598, Attention: Marc D. Rosenberg, Esq., counsel to the Debtors' postpetition secured lenders, (iii) the Office of the United States Trustee for this District, 33 Whitehall Street, 21st Floor, New York, New York 10004, Attention: Lauren Landsbaum, Esq., and (iv) Otterbourg, Steindler, Houston &

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

Rosen, P.C., 230 Park Avenue, New York, New York 10169, Attention: Scott L. Hazan, Esq.,
counsel to the Official Committee of Unsecured Creditors; and it is further

ORDERED, that this Order shall be effective and enforceable immediately upon
entry and shall not be stayed pursuant to Bankruptcy Rule 6004(g); and it is further

ORDERED, that this Court shall retain jurisdiction to hear and determine all
matters arising from the implementation of this Order; and it is further

ORDERED, that the requirement set forth in Rule 9013-1(b) of the Local Rules
that any motion or other request for relief be accompanied by a memorandum of law is hereby
deemed satisfied by the contents of the Motion.

Dated: White Plains, New York
September 17, 2003

/s/ Adlai S. Hardin, Jr.
HONORABLE ADLAI S. HARDIN, JR.
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

CHAIRMAN RETENTION AGREEMENT

CHAIRMAN RETENTION AGREEMENT, dated as of this ____ day of September, 2003 (the "Effective Date"), between The Penn Traffic Company, a Delaware corporation (the "Company"), and James A. Demme (the "Executive").

WHEREAS, the Company desires to employ the Executive and the Executive has indicated his willingness to provide his services, on the terms and conditions set forth herein;

WHEREAS, on May 30, 2003, the Company, together with its wholly and indirectly owned subsidiaries, Dairy Dell, Inc., Penny Curtiss Baking Company, Inc., Big M Supermarkets, Inc., Sunrise Properties, Inc., Pennway Express, Inc., Big Bear Distribution Company, Commander Foods, Inc., Abbott Realty Corporation, Bradford Supermarkets, Inc., P&C Food Markets, Inc. of Vermont, P.T. Development, LLC and PT Fayetteville/Utica, LLC, (collectively referred to herein as the "Debtors") filed voluntary petitions with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") for relief under chapter 11 of the Bankruptcy Code.

NOW, THEREFORE, on the basis of the foregoing premises and in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

SECTION 1. Term. The term of Executive's employment hereunder (the "Term") shall commence on the Effective Date, subject to approval by the Bankruptcy Court, and shall end on the earliest of (i) May 30, 2004; (ii) the date sixty days after the effective date of the Debtors' plan or plans of reorganization (the "Plan"); (iii) the date sixty days after the consummation of a sale of substantially all of the Debtors' assets approved by the Bankruptcy Court; or (iv) the date that the Executive's employment terminates pursuant to Section 5.

SECTION 2. Employment. Subject to the terms and conditions contained herein, the Executive shall serve as Chairman of the Board of Directors of the Company (the "Board"), shall, together with the Company's Interim Chief Executive Officer, manage and direct the Company's strategic planning, business planning and all merchandising, operational and other decisions, and shall have such other duties as are typically performed by the Chairman of the Board, together with such additional duties, commensurate with the Executive's position, as may be assigned to the Executive from time to time by the Board. During the first five months of the Term (the "Initial Period"), the principal location of the Executive's employment shall be at the Company's principal executive office located in Syracuse, New York, although the Executive understands and agrees that he may be required to travel from time to time for business reasons. The Executive agrees that during the Initial Period, the Executive shall perform his duties hereunder on a full-time basis. Thereafter through the remainder of the Term, the Executive agrees that he shall perform his duties hereunder on a part-time basis of approximately eight to ten days per month. At the request of the Board, Executive shall assist the Company in identifying and screening candidates for the position of permanent Chief Executive Officer for the reorganized Company.

SECTION 3. Compensation.

(a) Salary. As compensation for the performance of the Executive's services hereunder, the Company shall pay to the Executive a salary (the "Salary") of \$100,000 per month during the Initial Period and a salary of \$30,000 per month for the remainder of the Term. The Salary shall be payable in accordance with the Company's standard payroll practices.

(b) Bonus. Upon confirmation of any Plan, the Executive shall receive a bonus (the "Success Bonus") based on the percentage of recoveries, in any form, on allowed general unsecured creditor claims (defined as the blended recovery of all of the Debtors' unsecured claims, including the 11% senior notes and all other general unsecured claims), as follows: (x) for recoveries up to 10%, the Success Bonus shall be \$250,000; and (y) for each additional 1% of recoveries above 10%, the Success Bonus shall be increased by an additional \$20,000.

(c) Benefits. In addition to the Salary and the Success Bonus, the Executive shall during the Term be entitled to participate in health, insurance, pension, automobile and other benefits provided to other senior executives of the Company on terms no less favorable than those available to such senior executives of the Company. The Executive shall during the Term also be entitled to the same number of vacation days, holidays, sick days and other benefits as are generally allowed to other senior executives of the Company in accordance with the Company policies; provided, however, the Executive shall not be entitled to participate in any Company severance plans, the Company's Key Employee Retention Program, or any similar or other program designed to retain the Company's personnel during the pendency of the Debtors' Chapter 11 cases or to pay severance or separation pay.

SECTION 4. Reimbursement for Expenses. The Company shall reimburse the Executive for all reasonable expenses incurred in the performance of his services hereunder, including reasonable expenses incurred by the Executive for periodic travel and lodging, in accordance with Company policies, between the Executive's permanent home in Alabama and Syracuse, New York.

SECTION 5. Termination.

(a) Death. Upon the death of the Executive, this Agreement shall automatically terminate and the Executive's estate shall be entitled to receive the Executive's Salary for the remainder of the Term (determined as if this Agreement had not terminated in accordance with this Section 5(a)) in accordance with the Company's standard payroll practices.

(b) Disability. If the Executive is unable to perform the duties required of him under this Agreement because of illness, incapacity, or physical or mental disability, the Company shall have the right to terminate the Executive's employment and this Agreement on account of the Executive's disability; provided, that the Company shall, nevertheless, upon any such termination, continue to pay the Executive his Salary for the remainder of the Term (determined as if the Executive had not been terminated in accordance with this Section 5(b)) in accordance with the Company's standard payroll practices.

(c) By the Company for Cause. The Company may terminate the Executive's employment and this Agreement for Cause by delivering to the Executive a written notice setting forth the specific basis for such termination. Termination of the Executive's employment hereunder shall be effective upon delivery of such notice of termination. For purposes of this Agreement, "Cause" shall mean the Executive's (i) willful and continued failure to perform his duties hereunder, (ii) willful engagement in gross misconduct which is demonstrably and materially injurious to the Company or its affiliates, or (iii) conviction of, or pleading guilty or no contest to, a felony.

(d) By the Company Without Cause. The Company may terminate the Executive's employment and this Agreement without Cause by delivering to the Executive a written notice setting forth the effective date of such termination, which date shall not be less than 60 days after receipt by the Executive of written notice of such termination.

(e) By Executive for Good Reason. The Executive may terminate his employment and this Agreement for "Good Reason" if he resigns from employment hereunder following (i) a material breach of this Agreement by the Company or (ii) a material diminution of the Executive's duties by the Company. The date of termination of the Executive's employment under this Section 5(e) shall be the effective date of any resignation specified in writing by the Executive, which shall not be less than 60 days after receipt by the Company of written notice of such resignation, provided that such resignation shall not be effective and the Good Reason shall be deemed to have been cured if such Good Reason is remedied by the Company during such 60-day period.

(f) By Executive Without Good Reason. The Executive may terminate his employment and this Agreement without Good Reason by delivering to the Company a written notice setting forth the effective date of such termination, which date shall not be less than 60 days after receipt by the Company of written notice of such resignation.

(g) Payments Upon a Termination for Without Cause or Good Reason. In the event the Executive's employment hereunder is terminated in accordance with Section 5(d) or 5(e), the Company shall pay to the Executive, (i) any Salary earned but not paid through the effective date of such termination, (ii) the Salary (less any applicable withholding or similar taxes) in accordance with the Company's standard payroll practices, for the remainder of the Term (determined as if the Executive had not been terminated in accordance with Section 5(d) or 5(e)), and (iii) if within 90 days following such termination: (A) the Plan becomes effective, or (B) a sale of substantially all of the assets of the Debtors approved by the Bankruptcy Court is consummated, the Executive shall be entitled to receive the Success Bonus to the extent earned as provided in Section 3(b). Notwithstanding anything herein to the contrary, the payments and benefits to be provided to the Executive as set forth in this Section 5(g) shall be reduced, on a dollar for dollar basis, to the extent of any other termination payments or benefits provided by the Company to the Executive in connection with any "plant shutdown" or "mass layoff" under the Workers Adjustment or Retraining Act or any similar state or local worker dislocation statute.

(h) Payments Upon a Termination for With Cause or Without Good Reason. In the event the Executive's employment hereunder is terminated in accordance with Section

5(c) or 5(f), the Company shall pay to the Executive any Salary earned but not paid through the effective date of such termination.

(i) Continuing Rights. Upon any termination of this Agreement, all of the rights and privileges of the Executive hereunder shall cease, except for his rights under this Section 5.

SECTION 6. Nondisclosure of Confidential Information. The Executive, except in connection with his employment hereunder or as required by law, shall not disclose to any person or entity or use, either during the Term or at any time thereafter, any information not in the public domain or generally known in the industry, in any form, acquired by the Executive, such information which, to the Executive's knowledge, has been acquired, directly or indirectly, from any person or entity owing a duty of confidentiality to the Company or any of its subsidiaries or affiliates, relating to the Company, its subsidiaries or affiliates. The Executive agrees and acknowledges that all such information, in any form, and copies and extracts thereof, are and shall remain the sole and exclusive property of the Company, and upon termination of his employment with the Company, the Executive shall return to the Company the originals and all copies of any such information provided to or acquired by the Executive in connection with the performance of his duties for the Company, and shall return to the Company all files, correspondence and/or other communications received, maintained and/or originated by the Executive during the course of his employment. The obligations of the Executive under this Section 6 shall survive any termination of this Agreement.

SECTION 7. Successors and Assigns. This Agreement will inure to the benefit of, and be enforceable by, the Executive's heirs and the Company's successors and assigns. The Company shall have the right to assign this Agreement or any part hereof or any rights hereunder to any successor-in-interest to the Company and to any affiliate of the Company, if such successor expressly agrees to assume the obligations of the Company hereunder.

SECTION 8. Severability and Governing Law. If any provision of this Agreement is declared invalid, illegal or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Agreement shall nevertheless continue in full force and effect and no provisions shall be deemed dependent upon any other provision unless expressly set forth herein. This Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements entered into and performed entirely within such State, without regard to principles of conflicts of laws.

SECTION 9. Notices.

(a) All communications under this Agreement shall be in writing and shall be delivered by hand or mailed by overnight courier or by registered or certified mail, postage prepaid:

(i) If to the Executive, at 7113 Old Overton Club Drive, Birmingham, AL 35242, or at such other address as the Executive may have furnished the Company in writing,

(ii) If to the Company, at 1200 State Fair Boulevard, Syracuse, New York 13221, marked for the attention of the Company's General Counsel, or at such other address as it may have furnished in writing to the Executive.

(b) Any notice so addressed shall be deemed to be given: if delivered by hand, on the date of such delivery; if mailed by courier, on the first business day following the date of such mailing; and if mailed by registered or certified mail, on the third business day after the date of such mailing.

SECTION 10. Section Headings. The headings in this Agreement are solely for the convenience of reference and shall not affect its interpretation.

SECTION 11. Complete Agreement, Waiver and Modification. This Agreement contains a complete statement of all the arrangements between the parties with respect to the Executive's employment by the Company, supersedes all existing agreements and discussions between them concerning the Executive's employment and can only be amended or modified by a written instrument signed by the Company and the Executive. The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

SECTION 12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same agreement.

SECTION 13. Indemnity. The Company or one of its subsidiaries, as appropriate shall indemnify Executive for any claim arising out of or in connection with the Executive's service as an officer, director or employee of the Company or any such subsidiary, in the same manner and to the same extent as the Company or such subsidiary, as appropriate, indemnifies its current officers, directors and employees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE PENN TRAFFIC COMPANY

By: /s/ Steven Panagos
 Name: Steven Panagos
 Title: Interim Chief Executive Officer of the
 Company

EXECUTIVE

/s/ James A. Demme
 Name: James A. Demme

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----	x		
	:		
In re:	:		Chapter 11
	:		
HAYES LEMMERZ INTERNATIONAL,	:		Case No. 09-11655 (MFW)
inc., <u>et al.</u> , ¹	:		
	:		
Debtors.	:		Jointly Administered
	:		
-----	x		Related to Docket No. 89

**ORDER UNDER BANKRUPTCY CODE SECTIONS 105(A) AND 363(B)
AUTHORIZING THE RETENTION AND EMPLOYMENT OF AP SERVICES, LLC TO
PROVIDE INTERIM MANAGEMENT AND RESTRUCTURING SERVICES AND
DESIGNATING KEVIN CARMODY AS CHIEF RESTRUCTURING OFFICER TO THE
DEBTORS, NUNC PRO TUNC TO THE PETITION DATE**

¹ The following of Hayes' U.S. subsidiaries and affiliates (including the last four digits of their respective taxpayer identification numbers) have filed petitions for relief under chapter 11 concurrently with Hayes (2578) and have obtained joint administration therewith: Hayes Lemmerz Finance LLC (7731), Hayes Lemmerz International Import, Inc. (1655), Hayes Lemmerz International - California, Inc. (2337), Hayes Lemmerz International - Commercial Highway, Inc. (7674), Hayes Lemmerz International - Georgia, Inc. (6122), Hayes Lemmerz International - Howell, Inc. (9246), Hayes Lemmerz International - Huntington, Inc. (0825), Hayes Lemmerz International - Kentucky, Inc. (8246), Hayes Lemmerz International - Laredo, Inc. (8656), Hayes Lemmerz International - New York, Inc. (9278), Hayes Lemmerz International - Sedalia, Inc. (7670), Hayes Lemmerz International - Technical Center, Inc. (7519), Hayes Lemmerz International - Wabash, Inc. (0301), HLI Brakes Holding Company, Inc. (2575), HLI Commercial Highway Holding Company, Inc. (2828), HLI Netherlands Holdings, Inc. (0015), HLI Operating Company, Inc. (7742), HLI Parent Company, Inc. (7832), HLI Powertrain Holding Company, Inc. (8269), HLI Realty, Inc. (1885), HLI Services Holding Company, Inc. (7840), HLI Suspension Holding Company, Inc. (0061), and HLI Wheels Holding Company, Inc. (7882) (collectively with Hayes, the "U.S. Debtors"). With the exception of Hayes Lemmerz Finance LLC - Luxembourg S.C.A. (Luxembourg: 0646; USA: 7731) (the "Non-U.S. Debtor"), none of the foreign affiliates or subsidiaries of Hayes are Debtors in these chapter 11 cases. The mailing address for each of the U.S. Debtors is 15300 Centennial Drive, Northville, Michigan, 48168.

Upon the Motion (the "Motion")² of the Hayes Lemmerz International, Inc. ("Hayes") and certain of its affiliates for an order, pursuant to sections 105(a) and 363(b) of chapter 11 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"), (a) authorizing the retention and employment of AP Services, LLC ("APS") to provide interim management and restructuring services to the Debtors effective as of the date of the filing of these bankruptcy cases and (b) designating Kevin Carmody as the Chief Restructuring Officer for the Debtors; and the Court having reviewed the Motion, the First Day Declaration and the Young Declaration; and due and adequate notice of the Motion having been given; and it appearing that no other notice need be given; and it appearing that APS neither holds nor represents any interest materially adverse to the Debtors' estates; and it appearing that the relief requested in the Motion is in the best interest of the estates and their creditors; after due deliberation thereon and sufficient cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED as provided herein.
2. In accordance with Bankruptcy Code section 363(b), the Debtors are authorized, as of the Petition Date, to

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

(a) retain and employ APS on the terms set forth in the APS Engagement Letter, and (b) designate Kevin Carmody as the Chief Restructuring Officer for the Debtors.

3. Notwithstanding anything in the Motion, the Young Declaration, and/or the APS Engagement Letter to the contrary, APS' engagement is subject to the following modifications:

- (a) APS and its affiliates shall not act in any other capacity (e.g., without limitation, as a financial advisor, claims agent or investor/acquirer) in connection with the above-captioned cases.
- (b) In the event the Debtors seek to have APS personnel assume additional or different executive officer positions than the positions disclosed in the Motion, to modify materially the functions of the person engaged, and/or to materially alter or expand the scope of the engagement, a motion to modify the retention shall be filed.
- (c) APS shall file with the Court, with copies to the U.S. Trustee and all official committees, a report of staffing on the engagement for the previous month. Such report shall include the names and functions filled of the individuals assigned. All staffing shall be subject to review by the Court in the event an objection is filed.
- (d) No principal, employee or independent contractor of APS and its affiliates shall serve as a director of any of the Debtors during the pendency of the above-captioned cases.
- (e) APS shall file with the Court, and provide notice to the U.S. Trustee and all official committees, reports of compensation earned and expenses incurred on at least a quarterly basis. Such reports shall summarize the service provided, identify the compensation earned by each executive officer and staff employee provided by

APS and itemize the expenses incurred. Time records shall (i) be appended to the reports, (ii) contain detailed time entries describing the task(s) performed, (iii) be organized by project category, and (iv) the time entries shall be kept in 1/10-hour increments. The notice shall provide a time period for objections. All compensation shall be subject to review by the Court in the event an objection is filed.

- (f) Success fees, transaction fees, or other back-end fees shall be approved by the Court at the conclusion of the case on a reasonableness standard and are not being pre-approved by entry of this Order. No success fee, transaction fee or back-end fee shall be sought upon conversion of the case, dismissal of the case for cause, or appointment of a trustee.
- (g) For a period of three years after the conclusion of the engagement, neither AlixPartners, LLP nor any of its affiliates shall make any investments in the Debtors or the Reorganized Debtors.
- (h) The Debtors are permitted to indemnify those persons serving as corporate officers on the same terms as provided to the Debtors' other officers and directors under the corporate bylaws and applicable state law, along with insurance coverage under the Debtors' D&O policy. The Debtors shall not provide indemnification to APS, its affiliated entities, its agents, principals and/or employees except as provided in the preceding sentence.
- (i) APS shall make appropriate disclosures of any and all facts that may have a bearing on whether the firm, its subsidiaries, certain of its affiliates and/or any individuals working on the engagement have any conflict of interest or hold or represent any material adverse interest to the Debtors, its/their creditors or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation of APS.

4. If APS employs independent contractors ("ICs") in connection with the engagement, APS shall bill the services of the ICs to the Debtors at cost.

5. Nothing contained in paragraph 25 of the Motion shall limit or otherwise affect this Court's review of APS' compensation/reimbursement requests.

6. APS shall exhaust the outstanding retainer balance in satisfaction of allowed compensation/reimbursement requests before seeking payments from the Debtors on account of such requests.

7. Any and all limitation of liability provisions, including those contained in paragraphs 7 and 11 of the "Standard Terms and Conditions" appended to the APS Engagement Letter, shall be struck therefrom and be of no further force and effect.

8. Any payment to be made hereunder, including, but not limited to, payment of any Success Fee, shall be subject to the requirements imposed on the Debtors under that certain Final Order (I) Authorizing Debtors (A) to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, and 364, (B) to Use Cash Collateral Pursuant to 11 U.S.C. § 363, (II) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363, and 364, and (III) Scheduling Final Hearing Pursuant to Bankruptcy Rules

4001(B) and (C) (the "DIP Order"), entered on June 15, 2009 in these cases, and the 13-Week Budget (as defined in the DIP Order) set forth therein, provided, however, that payment of any Success Fee pursuant to the DIP Order shall be further subject to obtaining the written consent of the DIP Agent (as defined in the DIP Order), which consent may be withheld in its sole discretion.

9. The Official Committee of Unsecured Creditors reserves any and all rights with respect to the Success Fee, including that such fee is subject to reasonableness review under Bankruptcy Code section 330. APS will use best efforts to keep the Committee apprised of all developments with respect to the Success Fee.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

11. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. This Court shall retain jurisdiction with respect to all matters arising or related to the implementation of this Order.

Dated: Wilmington, DE
July 7, 2009



Honorable Mary F. Walrath
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2006 JAN -6 AM 8:41
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

In re: : Chapter 11
: :
LTV STEEL COMPANY, INC., : Jointly Administered
a New Jersey corporation, et al., : Case No. 00-43866
: :
Debtors. : Chief Judge Randolph Baxter

ORDER: (I) AUTHORIZING AMENDMENT OF CERTIFICATE OF INCORPORATION AND BY-LAWS OF THE LTV CORPORATION; (II) APPROVING AND AUTHORIZING THE ENGAGEMENT OF JOHN T. DELMORE AS (A) PRESIDENT AND TREASURER OF THE LTV CORPORATION AND (B) PRESIDENT, TREASURER AND SECRETARY OF LTV STEEL COMPANY, INC., *NUNC PRO TUNC* AS OF DECEMBER 1, 2005

This matter coming before the Court on the Motion of Debtors LTV Steel Company, Inc. and The LTV Corporation for an Order: (I) Authorizing Amendment of Certificate of Incorporation and By-Laws of The LTV Corporation; (II) Approving and Authorizing the Engagement of John T. Delmore as (A) President and Treasurer of The LTV Corporation and (B) President, Treasurer and Secretary of LTV Steel Company, Inc., *Nunc Pro Tunc* as of December 1, 2005 (the "Motion"), filed by LTV Steel Company, Inc. ("LTV Steel") and The LTV Corporation ("LTV Corp." and, together with LTV Steel, the "LTV Debtors"), two of the above-captioned debtors and debtors in possession; the Court having reviewed the Motion and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (c) notice of the Motion and the Hearing was sufficient under the

CL1-1361966v2

circumstances; (d) the amendment of the LTV Corp. Certificate of Incorporation¹ and By-Laws as set forth in the Motion, *nunc pro tunc* as of December 1, 2005, represents a reasonable exercise of the LTV Debtors' business judgment and is in the best interests of their estates, creditors and claimants; and (e) the engagement of John T. Delmore on the terms set forth in the amended term sheet attached hereto as Exhibit A (the "Amended Term Sheet") as (i) the President and Treasurer of LTV Corp. and (ii) the President, Treasurer and Secretary of LTV Steel, *nunc pro tunc* as of December 1, 2005, represents a reasonable exercise of the LTV Debtors' business judgment and is in the best interests of their estates, creditors and claimants; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. LTV Corp. is authorized to amend its Certificate of Incorporation and its By-Laws to reduce the minimum number of required directors to one, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code and section 303 of the DGCL, *nunc pro tunc* as of December 1, 2005.
3. The engagement of John T. Delmore as the President and Treasurer of LTV Corp. on terms and conditions consistent with those set forth in the Amended Term Sheet is authorized, pursuant to section 303 of the DGCL, and approved, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, *nunc pro tunc* as of December 1, 2005.
4. The engagement of John T. Delmore as the President and Treasurer of LTV Steel on terms and conditions consistent with those set forth in the Amended Term Sheet is

¹ Capitalized terms not otherwise defined have the meanings given to them in the Motion.

approved, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, *nunc pro tunc* as of December 1, 2005.

5. The LTV Debtors and their officers, employees and agents are authorized to perform all acts and make all payments that may be necessary or appropriate in connection with the amendment of their Certificates of Incorporation and By-Laws in connection with the engagement of Mr. Delmore as approved or authorized herein, and any actions taken prior to the entry of this Order that are consistent with this Order are hereby ratified.



R.B.

6. Pursuant to Rule 6004(h) of the Federal Rules of Bankruptcy Procedure, this Order is effective upon its entry, and the LTV Debtors are authorized to take any and all actions and enter into all transactions authorized by this Order immediately.

Dated: 1-6-06, 2006


CHIEF UNITED STATES BANKRUPTCY JUDGE

PREPARED BY:

/s/ Carl E. Black
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ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

CLI-1361966v2

TERMS OF ENGAGEMENT

JOHN T. DELMORE

- Will continue in role as officer and director to handle matters pertaining to the winddown of the LTV Steel and LTV Corp. estates
- Title, LTV Corp.: President and Treasurer
- Title, LTV Steel: President, Treasurer and Secretary
- Effective 12/01/05; to be approved by Bankruptcy Court *nunc pro tunc*
- Termination by estate for cause with 10 days' written notice; the Bankruptcy Court will retain jurisdiction to determine whether cause exists for any such termination. Termination by the estate or by the ACC for less than cause, including, but not limited to, on the grounds that termination is in the best interests of creditors, upon the entry of a Court order entered upon notice of a motion and the opportunity for a hearing. Termination by Mr. Delmore for any or no reason with 60 days' written notice.
- Anticipated normal required week – 2 days. Time may increase as needs of estate require, including, but not limited to: transition period, periods when discovery is occurring in connection with litigation, periods of creditor distributions, and periods of preparation of tax returns, etc.
- Compensation: at a rate of \$350 per hour plus reimbursement of all reasonable out-of-pocket business expenses. Mr. Delmore will be reimbursed for ordinary-course business expenses incurred in connection with the conduct of company business. Ordinary-course business expenses would include costs arising from travel such as air fare, hotels, taxis, etc.; mileage/parking; business meals; cell phone; office supplies, postage or similar expenses that are not directly billed to the company. Mr. Delmore will discuss the incurrence of any out-of-pocket expenses that would not arise in the ordinary course of performing his duties or of winding down the estates, or that are not currently reimbursable by the estate, with counsel to the ACC in advance of his incurring such expenses. Mr. Delmore will keep current general time records, which will be available for inspection during normal business hours.
 - As long as the current pension plan is maintained and contributions are being made to the plan on his behalf, Mr. Delmore's hourly rate will be reduced to \$320 in cash and a \$30 per hour contribution to the pension plan made by LTV Steel.
 - Payments will continue to be processed through Complete Payroll Management
- Mr. Delmore may engage other contract employees from time to time and at his discretion to assist him with his duties. They are currently anticipated to include:

- Secretary anticipated for 1 - 1.5 days per week after transition period and during non-peak times
- Other temporary employees as required (assumed 1 day per week)
- Continuation of D&O coverage at current levels for duration of Mr. Delmore's engagement.

EXHIBIT 3

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re : Chapter 11
Metaldyne Corporation, *et al.*, : Case No. 09-13412 (MG)
Debtors. : (Jointly Administered)
-----X

**ORDER APPROVING AND AUTHORIZING THE ENGAGEMENT
OF LARRY CARROLL AS AN OFFICER OF EACH OF THE DEBTORS,
NUNC PRO TUNC AS OF OCTOBER 8, 2009, AND CERTAIN RELATED RELIEF**

This matter coming before the Court on the Motion of Debtors and Debtors in Possession for an Order Approving and Authorizing the Engagement of Larry Carroll as an Officer of Each of the Debtors, *Nunc Pro Tunc* as of October 8, 2009, and Certain Related Relief (the "Motion"),¹ filed by the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"); the Court having reviewed the Motion and having heard the statements of counsel regarding the relief requested in the Motion at a hearing before the Court (the "Hearing"); and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (c) notice of the Motion and the Hearing was sufficient under the circumstances, and (d) a sound business purpose exists for the relief granted herein; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

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

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

2. The engagement of Larry Carroll as an officer of the Debtors on terms and conditions consistent with those set forth in the Motion and the Employment Agreement is authorized and approved, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, *nunc pro tunc* as of October 8, 2009, and the Debtors, and any successor thereto, are authorized and empowered to perform their obligations under the Employment Agreement.

3. The Debtors are authorized, as may become necessary or appropriate under the circumstances, to appoint Mr. Carroll to such additional officer positions and/or as a director on one or more boards of directors of the Debtors.

4. The Debtors and their officers, employees and agents are authorized to perform all acts and make all payments that may be necessary or appropriate in connection with the employment of Mr. Carroll as approved or authorized herein.

5. Pursuant to Rule 6004(h) of the Federal Rules of Bankruptcy Procedure, this Order is effective upon its entry, and the Debtors are authorized to take any and all actions and enter into all transactions authorized by this Order immediately.

Dated: New York, New York
_____, 2009

UNITED STATES BANKRUPTCY JUDGE