

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re:	:	Chapter 11
	:	
NIPPON ELECTRIC GLASS	:	Case No. 04-63851
OHIO, INC.,	:	
	:	
Debtor.	:	Judge John E. Hoffman, Jr.

**APPLICATION FOR AN ORDER AUTHORIZING EMPLOYMENT  
OF KEGLER BROWN HILL & RITTER AS LOCAL COUNSEL FOR NIPPON  
ELECTRIC GLASS OHIO, INC., DEBTOR AND DEBTOR IN POSSESSION**

Nippon Electric Glass Ohio, Inc. (the "Debtor"), debtor and debtor in possession, hereby moves the Court for an order authorizing the Debtor to retain and employ Kegler Brown Hill & Ritter, Co., L.P.A. ("Kegler Brown"), *nunc pro tunc* as of September 1, 2004, as local counsel for the Debtor, pursuant to sections 327 and 328 of Title 11 (the "Bankruptcy Code") of the United States Code, Rules 2014 and 5002 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Bankruptcy Rule 2014-1. In support of this Application, the Debtor relies on the Affidavit of Kenneth R. Cookson, a copy of which is attached hereto as Exhibit A, and respectfully represents the following:

**JURISDICTION**

1. The Court has jurisdiction to consider the Application pursuant to 28 U.S.C. §§ 157 and 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. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 327 and 328, and Bankruptcy Rule 2014(a).

**BACKGROUND**

2. The Debtor is in the business of manufacturing glass parts for cathode ray tubes used in television sets.

3. On September 1, 2004 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtor continues to operate its business and manage its property as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

#### **RELIEF REQUESTED**

4. The Debtor respectfully requests authority to retain and employ Kegler Brown as its local bankruptcy counsel, as described herein, during this Chapter 11 case. Accordingly, the Debtor respectfully requests that the Court enter an order pursuant to section 327 of the Bankruptcy Code authorizing the Debtor to employ and retain Kegler Brown as its bankruptcy local counsel effective as of the Petition Date.

5. Contemporaneously herewith, the Debtor is seeking authority to retain Morrison & Foerster LLP to represent the Debtor as lead bankruptcy counsel in this Chapter 11 case.

#### **RETENTION OF KEGLER BROWN**

6. The Debtor believes that Kegler Brown possesses the requisite knowledge and expertise in the areas of law relevant to this case and that it is well qualified to represent the Debtor. The Debtor also seeks to retain and use Kegler Brown to coordinate and assist the law firm of Morrison & Foerster LLP ("Morrison") within this bankruptcy proceeding. Kegler Brown is experienced regarding local bankruptcy practices and procedures in this Court. Kegler Brown is qualified to act as local counsel in conjunction with Morrison of San Francisco, California.

#### **No Adverse Interest**

7. To the best of the Debtor's knowledge, information and belief, as set forth in the attached affidavit of Kenneth R. Cookson, a director of Kegler Brown (the "Cookson Affidavit"), and in connection with this case, Kegler Brown does not represent and does not hold any interest

adverse to the Debtor's estate or its creditors in matters upon which Kegler Brown is to be engaged.

8. To the best of the Debtor's knowledge, information and belief, Kegler Brown is disinterested within the meaning of 11 U.S.C. § 101(14).

9. Further, to the best of the Debtor's knowledge, information and belief, Kegler Brown does not have any connection with any creditors or other parties in interest, or their respective attorneys or accountants, the United States Trustee, or any person employed in the office of the United States Trustee.

### **Scope of Services**

10. In connection with Kegler Brown's representation of the Debtor in this Chapter 11 case, and in coordination with Morrison, the services provided by Kegler Brown may include the following:

- a. Serve as local bankruptcy counsel;
- b. Advise the Debtor with respect to its powers and duties as a debtor and debtor-in-possession in the continued management and operation of its business and properties;
- c. Advise and consult on the conduct of the case, including all of the legal and administrative requirements of operating in Chapter 11;
- d. Deal with parties in interest and their attorneys and agents as is necessary during the pendency of the case;
- e. Prepare motions, applications, answers, orders, reports and papers necessary to the administration of the estate;
- f. Prepare pleadings and orders related to the plan of reorganization and take action as necessary to obtain confirmation of a plan of reorganization;

- g. Take action as necessary to protect and preserve the Debtor's estate, including prosecuting actions on its behalf, defending actions commenced against the estate, and objecting to claims filed against the estate; and
- h. Perform all other necessary legal services and provide all other necessary legal advice to the Debtor.

11. While certain aspects of Kegler Brown's representation may involve joint efforts with Morrison, the Debtor's general bankruptcy counsel, the Debtor believes Kegler Brown's services will be complimentary too, rather than duplicative of, the services Morrison will provide. Further, the Debtor is mindful of the need to avoid duplication of services, and appropriate procedures will be implemented to ensure minimal duplication of effort, if any, as a result of Kegler Brown's role as local bankruptcy counsel.

#### **Terms of Retention**

12. In accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to Kegler Brown on an hourly basis, plus reimbursement of actual and necessary expenses incurred by Kegler Brown.

13. The hourly rates charged by Kegler Brown for services rendered by its attorneys and paraprofessionals, including the hourly rates of specific attorneys that will provide a majority of services for the Debtor and a range of hourly rates for other attorneys and paraprofessionals that may render services to the Debtor, are as follows:

Kenneth R. Cookson	\$280.00
Larry J. McClatchey	\$285.00
Lisa M. Diem	\$205.00
Other directors	\$225.00-275.00
Other associates	\$150.00-205.00
Paralegals	\$75.00 - \$85.00

Kegler Brown customarily reviews its professional and paraprofessional hourly rates on an annual basis. Any revisions to the above referenced rates will be brought to the attention of the Court by supplemental disclosure or by such other means as the Court directs.

14. Kegler Brown's hourly rates are set at a level designed to compensate it fairly for the work of its attorneys and paraprofessionals and to cover fixed and routine overhead expenses. Hourly rates vary with the experience and seniority of the individuals assigned and may be adjusted by Kegler Brown from time to time. It is Kegler Brown's policy to charge its clients in all areas of practice for all other expenses incurred in connection with a client's matter. The expenses generally charged to clients include, without limitation, photocopy charges, witness fees, travel expenses, certain secretarial and other overtime expenses, filing and recording fees, long distance telephone calls, postage, express mail and messenger charges, computerized legal research charges and other computer services, expenses for "working" meals, and telecopier charges. Kegler Brown will charge the Debtor for these expenses in a manner and at rates consistent with charges generally made to other clients.

15. Pursuant to Local Bankruptcy Rule 2014-1(b)(3), the Debtor hereby reports that it paid Kegler Brown a retainer (the "Retainer") for professional services to be rendered and charges and disbursements to be incurred on behalf of the Debtor by Kegler Brown in connection with the services described in this Application. The Retainer is in the amount of \$50,000 and was received by Kegler Brown, by wire transfer, on September 1, 2004, before the filing of the voluntary petition. The Debtor and Kegler Brown agree that the Retainer will be used to pay for professional services rendered and charges and disbursements incurred by Kegler Brown for work immediately preceding and following the Petition Date. The Debtor has paid no other retainer to Kegler Brown within one year of the Petition Date.

16. Pursuant to Local Bankruptcy Rule 2014-1(b)(2), the Debtor hereby reports that Kegler Brown has not provided services or received payment of fees and expenses, except as otherwise set forth herein, within one year of the Petition Date.

17. The Debtor's management believes that the attorneys at Kegler Brown are well qualified to act on the Debtor's behalf given Kegler Brown's extensive knowledge and expertise. The Debtor further believes that the engagement of Kegler Brown as its local bankruptcy counsel is essential to enable the Debtor to maximize the value of its estate.

18. Contemporaneously herewith, the Debtor is seeking Court approval of the Motion for an Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (the "Compensation Procedures Motion"). Pursuant to the Compensation Procedures Motion, and Court approval thereof, Kegler Brown will, on a monthly basis, supply to the Debtor, counsel for the Debtor, the United States Trustee, members of any committee of unsecured creditors, counsel for any committee, and all other persons requesting notice in this case, subject to a limited service list, monthly itemized statements detailing the services performed and expenses incurred in connection with its representation of the Debtor. The Debtor, subject to Court approval of this Application, seeks authority to apply payments in the amount of eighty percent (80%) of its fees and services and one hundred percent (100%) of its expenses on a monthly basis upon submission of the above-referenced monthly itemized statement. All monthly payments paid to and received by Kegler Brown shall be subject to repayment and to final approval by the Court upon the interim and final fee applications of Kegler Brown.

19. Kegler Brown will submit interim and final applications for compensation in accordance with the Bankruptcy Rules, the local rules of this Court, and such other and further orders as the Court may direct.

**No Prior Request**

20. No previous application for the relief sought herein has been made to this or any other Court.

**Notice**

22. No trustee, examiner or committee has been appointed in this case. Notice of this Application has been given to the Debtor, its general bankruptcy counsel, the United States Trustee, and all other parties that have requested notice in these cases by either regular U.S. Mail or electronic mail transmission. In light of the nature of the relief requested herein, the Debtor submits that such notice is adequate and sufficient.

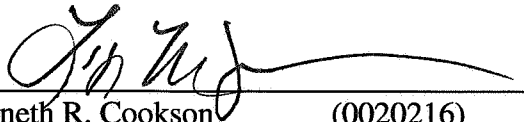
WHEREFORE, the Debtor respectfully requests this Court enter an Order, in the form attached hereto as Exhibit A, effective as of September 1, 2004, (i) authorizing and approving the Debtor's employment of Kegler Brown, pursuant to 11 U.S.C. §§ 327 and 328, Bankruptcy Rule 2014(a) and Local Bankruptcy Rule 2014-1, as counsel for the Debtor, on the terms and conditions as set forth herein and in the Cookson Affidavit, and (ii) granting such other and further relief as the Court deems just and proper.

Dated: September 9, 2004

Respectfully submitted,

NIPPON ELECTRIC GLASS OHIO, INC.

By: K. Takeda  
Katsuo Takeda  
President



Kenneth R. Cookson (0020216)

Lisa M. Diem (0069283)

KEGLER, BROWN, HILL & RITTER

A Legal Professional Association

65 East State Street, Suite 1800

Columbus, Ohio 43215

614/462-5400

614/462-2634 – Fax

[kcookson@keglerbrown.com](mailto:kcookson@keglerbrown.com)

[ldiem@keglerbrown.com](mailto:ldiem@keglerbrown.com)

Proposed Local Counsel for Nippon Electric  
Glass Ohio, Inc.



**EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	:	Chapter 11
	:	
NIPPON ELECTRIC GLASS	:	Case No. 04-63851
OHIO, INC.,	:	
	:	
Debtor.	:	Judge John E. Hoffman, Jr.

**ORDER AUTHORIZING EMPLOYMENT OF KEGLER BROWN HILL & RITTER AS  
LOCAL COUNSEL FOR NIPPON ELECTRIC GLASS OHIO, INC., DEBTOR AND  
DEBTOR IN POSSESSION**

This matter coming before the Court on the application of Nippon Electric Glass Ohio, Inc., debtor and debtor in possession (the "Debtor"), for an order authorizing the Debtor to retain and employ Kegler Brown Hill & Ritter, Co., L.P.A. ("Kegler Brown"), *nunc pro tunc* as of September 1, 2004, as local bankruptcy counsel for the Debtor; the Court having reviewed the Application and the Affidavit of Kenneth R. Cookson in support of the Application (the "Cookson Application") and the Court finding that it has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and notice of the Application was sufficient under the circumstances; and the

Court having determined that the legal and factual bases set forth in the Application and the Cookson Affidavit establish just cause for the relief sought herein;

IT IS, THEREFORE, ORDERED THAT:

1. The Debtor is authorized to employ and retain Kegler Brown as its local bankruptcy counsel on the terms set forth in the Application.
2. Kegler Brown is authorized to perform any and all legal services for the Debtor that are necessary or appropriate in connection with the Application.
3. Kegler Brown shall be compensated for its services and reimbursed for any related expenses in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and any other applicable orders of this Court.
4. Notwithstanding the possible applicability of Bankruptcy Rules 6004(g), 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective *nunc pro tunc* to September 1, 2004, and enforceable upon its entry.
5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
6. Kegler Brown is permitted to receive and apply payments from the Debtor of eighty percent (80%) of its fees and services and one hundred percent (100%) of its expenses on a monthly basis upon submission by Kegler Brown of an itemized statement detailing the services performed and expenses incurred in connection with its representation of the Debtor. All monthly payments received by Kegler Brown shall be subject to repayment and to final approval by the Court upon interim and final fee applications by Kegler Brown. Kegler Brown shall serve a copy of the itemized statement upon the United States Trustee, the Debtor, general bankruptcy counsel for the Debtor, members of a committee of unsecured creditors, if any,

counsel for such committee, and all other persons having requested notice, subject to the limited service list.

7. This Court retains jurisdiction with respect to all matters arising from or related to implementation of this Order.

**IT IS SO ORDERED.**

Copies to: Parties on the attached list.

## SERVICE LIST

Nippon Electric Glass Ohio, Inc.  
Attn: Katsuo Takeda  
P.O. Box 220  
El Centro, CA 92444

Adam Lewis  
Patricia S. Mar  
Morrison & Forrester LLP  
235 Market Street, 33<sup>rd</sup> Floor  
San Francisco, CA 94104

Japan Bank for  
International Cooperation  
4-1, Ohtemachi 1-Chrome  
Chiyoda-ku  
Tokyo 100-8144  
Japan

Thomson, Inc.  
PO Box 972630  
El Paso, TX 79997

Transportes Juan Carlos  
De Mixicali, SA de CV  
Blvd. Hector Teran Teran  
#2382 Fracc. Laguna  
Xochimilco, Mexicali, B.C.  
Mexico

Daniel A. DeMarco, Esq.  
Christopher B. Wick, Esq.  
Hahn Loeser & Parks LLP  
3300 BP Tower  
200 Public Square  
Cleveland, Ohio 44114-2301

United States Trustee  
170 N. High Street, Suite 200  
Columbus, Oh 43215-2403

Kenneth R. Cookson  
Lisa M. Diem  
Kegler Brown Hill & Ritter  
65 East State Street, Suite 1800  
Columbus, Ohio 43215

## **NOTICE OF APPLICATION AND CERTIFICATE OF SERVICE**

Nippon Electric Glass Ohio, Inc. has filed the foregoing *Application for an Order Authorizing Employment of Kegler Brown Hill & Ritter as Local Counsel for Nippon Electric Glass Ohio, Inc., Debtor and Debtor in Possession* seeking an order authorizing the retention of local bankruptcy counsel. Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want to Court to rule against you, or if you want the Court to consider your views on the Application, then on or before twenty (20) days after service of this Application you or your attorney must file with the Court a response explaining your position at:

United States Bankruptcy Court  
170 North High Street  
Columbus, Ohio 43215

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the deadline stated above. You must also serve a copy on the following:

United States Trustee  
170 North High Street, Suite 200  
Columbus, Ohio 43215

Kenneth R. Cookson  
Lisa M. Diem  
Kegler Brown Hill  
& Ritter  
65 East State St.,  
Suite 1800  
Columbus, OH 43215

Adam Lewis  
Patricia Mar  
Morrison & Foerster LLP  
425 Market St., 33<sup>rd</sup> Floor  
San Francisco, CA 94105-  
2482

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Application or objection and may enter an order granting that relief.

The undersigned hereby certifies that a copy of the foregoing *Application for an Order Authorizing Employment of Kegler Brown Hill & Ritter as Local Counsel for Nippon Electric Glass Ohio, Inc., Debtor and Debtor in Possession* was served by regular U.S. Mail, postage prepaid, or by electronic filing, as indicated on the receipt of filing, on September 10, 2004, on the parties listed below.

Nippon Electric Glass Ohio, Inc.  
Attn: Katsuo Takeda  
P.O. Box 220  
El Centro, CA 92444

Adam Lewis  
Patricia S. Mar  
Morrison & Forrester LLP  
235 Market Street, 33<sup>rd</sup> Floor  
San Francisco, CA 94104

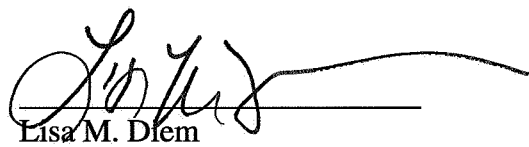
Japan Bank for  
International Cooperation  
4-1, Ohtemachi 1-Chrome  
Chiyoda-ku  
Tokyo 100-8144  
Japan

Thomson, Inc.  
PO Box 972630  
El Paso, TX 79997

Transportes Juan Carlos  
De Mixicali, SA de CV  
Blvd. Hector Teran Teran  
#2382 Fracc. Laguna  
Xochimilco, Mexicali, B.C.  
Mexico

Daniel A. DeMarco, Esq.  
Christopher B. Wick, Esq.  
Hahn Loeser & Parks LLP  
3300 BP Tower  
200 Public Square  
Cleveland, Ohio 44114-2301

United States Trustee  
170 N. High Street, Suite 200  
Columbus, Oh 43215-2403



Lisa M. Dlem



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

In re:	:	Chapter 11
	:	
NIPPON ELECTRIC GLASS	:	Case No. 04-63851
OHIO, INC.,	:	
	:	
Debtor.	:	Judge John E. Hoffman, Jr.

**AFFIDAVIT OF KENNETH R. COOKSON IN SUPPORT OF APPLICATION FOR AN  
ORDER AUTHORIZING EMPLOYMENT OF KEGLER BROWN HILL & RITTER AS  
LOCAL COUNSEL FOR NIPPON ELECTRIC GLASS OHIO, INC., DEBTOR AND  
DEBTOR IN POSSESSION**

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF FRANKLIN        )

The undersigned, being first duly sworn, states as follows:

1. I am an attorney at law duly licensed and in good standing to practice law in the State of Ohio and am a director in the law firm of Kegler, Brown, Hill & Ritter Co., L.P.A. ("Kegler Brown"). I offer this Affidavit pursuant to 11 U.S.C. § 327, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 2014-1, and in support of the Application of Nippon Electric Glass Ohio, Inc., debtor and debtor in possession (the "Debtor") to employ Kegler Brown as its local bankruptcy counsel (the "Application").

2. Kegler Brown is a 64 lawyer full service law firm and has, in particular, extensive experience in complex Chapter 11 reorganization cases, including the representation of debtors, creditors and creditors' committees in significant cases in the Southern District of Ohio, the Northern District of Ohio and elsewhere. As such, Kegler Brown is well-qualified to represent the Debtor in these proceedings.



### **Scope of Services**

3. In connection with Kegler Brown's representation of the Debtor in this Chapter 11 case, and in coordination with Morrison & Forester LLP ("Morrison"), the services provided by Kegler Brown may include the following:

- a. Serve as local bankruptcy counsel;
- b. Advise the Debtor with respect to its powers and duties as a debtor and debtor-in-possession in the continued management and operation of its business and properties;
- c. Advise and consult on the conduct of the case, including all of the legal and administrative requirements of operating in Chapter 11;
- d. Deal with parties in interest and their attorneys and agents as is necessary during the pendency of the case;
- e. Prepare motions, applications, answers, orders, reports and papers necessary to the administration of the estate;
- f. Prepare pleadings and orders related to the plan of reorganization and take action as necessary to obtain confirmation of a plan of reorganization;
- g. Take action as necessary to protect and preserve the Debtor's estate, including prosecuting actions on its behalf, defending actions commenced against the estate, and objecting to claims filed against the estate; and
- h. Perform all other necessary legal services and provide all other necessary legal advice to the Debtor.

4. While certain aspects of Kegler Brown's representation may involve joint efforts with Morrison, the Debtor's general bankruptcy counsel, the Debtor believes Kegler Brown's

services will be complimentary too, rather than duplicative of, the services Morrison will provide. Further, the Debtor is mindful of the need to avoid duplication of services, and appropriate procedures will be implemented to ensure minimal duplication of effort, if any, as a result of Kegler Brown's role as local bankruptcy counsel.

5. Subject to the Court's approval of the Application, Kegler Brown is willing to serve as the Debtor's local bankruptcy counsel and perform the services described above.

#### **Additional Disclosures**

6. Kegler Brown has conducted a conflict of interest survey covering the Debtor's creditors and potential parties in interest, as provided by the Debtor and Morrison. On the basis of the survey results, to the best of my knowledge, information and belief, Kegler Brown has not represented any creditor, equity security holder or other party in interest in matters involving the Debtor or in connection with this proceeding.

7. Approximately ten (10) years ago, an attorney at Kegler Brown, who has now relocated his practice, represented Techneglas, Inc., an affiliate of the Debtor, in discrete matters wholly unrelated to this Chapter 11 case. That representation ended approximately 10 years ago. Kegler Brown does not believe any conflict exists with respect to this prior representation of Techneglas, Inc.

8. As required by section 327 of the Bankruptcy Code, neither Kegler Brown nor any attorney at Kegler Brown holds or represents an interest adverse to the Debtor or its estate with respect to the matters on which Kegler Brown is to be retained. Kegler Brown has no relationship with the office of the United States Trustee nor with any person employ in the office of the United States Trustee. Kegler Brown has no individuals within its firm that are a relative

of the bankruptcy judge or so connected as to render its employment improper. Kegler Brown is disinterested within the meaning of 11 U.S.C. § 101(14).

9. Kegler Brown will continue to review its records to ensure that no conflicts or disqualifying circumstances exist or arise. If any previously undiscovered facts or circumstances are discovered, Kegler Brown will supplement its disclosure to the Court.

#### **Professional Compensation**

10. The Debtor paid a retainer (the "Retainer") for professional services to be rendered and charges and disbursements to be incurred on behalf of the Debtor by Kegler Brown in connection with the services described in this Application. The Retainer is in the amount of \$50,000 and was received by Kegler Brown, by wire transfer, on September 1, 2004, before the filing of the voluntary petition. The Debtor and Kegler Brown agree that the Retainer will be used to pay for professional services rendered and charges and disbursements incurred by Kegler Brown for work immediately preceding and following the Petition Date. The Debtor has paid no other retainer to Kegler Brown within one year of the Petition Date.

11. Kegler Brown has not provided services to or received payment of fees and expenses from the Debtor, except as otherwise set forth herein, within one year of the Petition Date.

12. The hourly rates Kegler Brown proposes to charge for its professional services are its customary hourly rates. The hourly rates are subject to periodic increases from time to time and Kegler Brown reviews its hourly rates on an annual basis. The customary hourly rates which Kegler Brown proposes to charge for services in this case are currently as follows:

Kenneth R. Cookson	\$280.00
Larry J. McClatchey	\$285.00
Lisa M. Diem	\$205.00
Other directors	\$225.00 - \$275.00

Other associates	\$150.00 - \$205.00
Paralegals	\$75.00 - \$85.00

Any revisions to the above-referenced rates will be brought to the attention of the Court by supplemental disclosure or by such other means as the Court may direct.

13. Kegler Brown's hourly rates are set at a level designed to compensate it fairly for the work of its attorneys and paraprofessionals and to cover fixed and routine overhead expenses. Hourly rates vary with the experience and seniority of the individuals assigned and may be adjusted by Kegler Brown from time to time. It is Kegler Brown's policy to charge its clients in all areas of practice for all other expenses incurred in connection with a client's matter. The expenses generally charged to clients include, without limitation, photocopy charges, witness fees, travel expenses, certain secretarial and other overtime expenses, filing and recording fees, long distance telephone calls, postage, express mail and messenger charges, computerized legal research charges and other computer services, expenses for "working" meals, and telecopier charges. Kegler Brown will charge the Debtor for these expenses in a manner and at rates consistent with charges generally made to other clients.

14. Kegler Brown intends to apply to the Court for allowance of compensation for professional services rendered and reimbursement of expenses incurred in this Chapter 11 case in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the local rules and orders of this Court. Kegler Brown will seek compensation for the services of each attorney and paraprofessional acting on behalf of the Debtor in this case at the then-current standard rate charged for such services on a non-bankruptcy matter. Subject to Court approval of the Motion for an Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (the "Compensation Procedures Motion"), Kegler Brown will, on a monthly basis, supply to the Debtor, counsel for the Debtor, the United States


Trustee, members of any committee of unsecured creditors, counsel for any committee, and all other persons requesting notice in this case, subject to limited notice, monthly itemized statements detailing the services performed and expenses incurred in connection with its representation of the Debtor. The Debtor, subject to Court approval of the Application, seeks authority for Kegler Brown to apply payments in the amount of eighty percent (80%) of its fees and services and one hundred percent (100%) of its expenses on a monthly basis upon submission of the above-referenced monthly itemized statement. Kegler Brown understands that all monthly payments are subject to repayment and to final approval by the Court upon the interim and final fee applications.

15. Kegler Brown has agreed to accept as compensation such sums as may be allowed by the Court on the basis of the professional time spent, the rates charged for such services, the necessity of such services to the administration of the estate, the reasonableness of the time within which the services were performed in relation to the results achieved, and the complexity, importance, and nature of the problems, issues or tasks addressed in this Chapter 11 case.

16. Neither I, Kegler Brown nor any director or associate hereof, has received or been promised any compensation for legal services rendered or to be rendered in connection with this case, except as permitted by the Title 11 of the United States Code and as disclosed in the Application and filed concurrently herewith. Kegler Brown has not agreed to share compensation received in connection with these cases with any other person, except as permitted by 11 U.S.C. § 504(b) and Rule 2016 of the Federal Rules of Bankruptcy Procedure in respect of the sharing of compensation among members of the firm.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the following is true and correct.

AFFIANT FURTHER SAYETH NAUGHT.

  
Kenneth R. Cookson

Sworn to before me and subscribed in my presence this 10<sup>th</sup> day of September, 2004.



ANN M. KRAI  
Notary Public, State of Ohio  
My Commission Expires 06-09-08

  
Notary Public