

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re)	Case No. 04-63851
)	
NIPPON ELECTRIC GLASS OHIO, INC.)	Federal I.D. No. 95-4658750
)	
Debtor.)	Chapter 11
)	
)	Judge John E. Hoffman, Jr.

**APPLICATION FOR ORDER UNDER 11 U.S.C. §§ 327(a) AND 329
AUTHORIZING THE EMPLOYMENT OF
MORRISON & FOERSTER LLP AS COUNSEL FOR DEBTOR**

Nippon Electric Glass Ohio, Inc. (the “Debtor”) hereby submits this application (the “Application”) for an order pursuant to 11 U.S.C. §§327(a) and 329, Rule 2014 of the Federal Rules of Bankruptcy Procedure and Local Rule 2014-1 authorizing the Debtor to employ the law firm of Morrison & Foerster LLP (“Morrison”), 425 Market Street, San Francisco, California, 94105, *nunc pro tunc* as of September 1, 2004, as counsel to the Debtor and Debtor-in-Possession in this bankruptcy case and to provide corporate, litigation and employee benefit services as set forth herein. In support of this Application, the Debtor relies on the Declaration of Patricia S. Mar filed herewith. In further support of this Application, the Debtor respectfully states and alleges as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper under 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2).
2. The statutory predicates for the relief requested herein are 11 U.S.C. §§ 327(a) and 329 and Bankruptcy Rules 2014 and 2016.

Background

3. The Debtor is in the business of manufacturing glass parts for cathode ray tubes used in television sets.
4. On September 1, 2004, the Debtor commenced its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code 11 U.S.C. §101 *et seq.*
5. The Debtor has continued to operate its business and manage its assets as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108.

Relief Requested

6. By this Application, the Debtor seeks approval to employ and retain Morrison & Foerster LLP (“Morrison”) to serve as counsel to the Debtor and the Debtor-in-Possession in this Chapter 11 case. In addition to representation of the Debtor on bankruptcy matters, Morrison will provide advice and representation to the Debtor on corporate, litigation and employee benefit matters, including representation of the Debtor with respect to any claims of the Pension Benefit Guaranty Corporation against the Debtor.
7. Morrison has extensive qualifications, experience and knowledge in Chapter 11 business reorganizations, and in the corporate, litigation and employee benefit matters in which they will be providing services to the Debtor. The Debtor has been

advised that the bankruptcy counsel who will be responsible for representing the Debtor in this bankruptcy case, Adam Lewis and Patricia Mar, each have over 20 years of experience in Chapter 11 reorganization cases.

8. The Debtor is separately seeking approval to retain Kegler, Brown, Hill & Ritter of Columbus, Ohio as Ohio counsel to provide legal services in this case. The Debtor has been assured that the two firms have consulted with each other on a division of responsibilities in connection with their representation of the Debtor, and the two law firms will make every effort to avoid unnecessary duplication of services while obtaining maximum advantages from their respective expertise, knowledge and proximity to the Court and the Debtor's offices.

9. The services of Morrison are necessary in order for Debtor to faithfully execute its duties as a debtor and debtor-in-possession. The services that Morrison will render to the Debtor in the bankruptcy case include, but shall not be limited to:

- a. 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;
- b. Advise and consult on the conduct of the case, including all of the legal and administrative requirements of operating in Chapter 11;
- c. Deal with parties in interest and their attorneys and agents as is necessary during the pendency of the case;
- d. Prepare motions, applications, answers, orders, reports and papers necessary to the administration of the estate;
- e. Prepare pleadings and orders related to the plan of reorganization and take action as necessary to obtain confirmation of a plan of reorganization;

- f. 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
- g. Perform all other necessary legal services and provide all other necessary legal advice to the Debtor.

Terms of Retention

10. The Debtor understands that Morrison intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the local rules and orders of this Court and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursements of Expenses Filed under 11 U.S.C. § 330. Subject to the Court's approval in accordance with 11 U.S.C. § 330(a), compensation will be payable to Morrison on an hourly basis, plus reimbursement of actual, necessary expenses incurred by the firm. The Debtor understands that the standard hourly billing rates for Morrison range from \$225 to \$725 per hour for attorneys and that Morrison reviews and adjusts its hourly rates periodically.

11. 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"). Subject to the Court's approval of the Compensation Procedures Motion, Morrison will seek authority to apply payments in the amount of 80% of its fees and services and 100% of its expenses on a monthly basis in accordance with the terms and procedures set forth in the Compensation Procedures Motion.

12. Prior to the filing of the Petition on September 1, 2004, the Debtor paid Morrison \$80,000 on account of prepetition services rendered prior to the filing of the Chapter 11 case. Prior to the filing of the Petition, the Debtor also paid to Morrison a retainer of \$400,000 for services to be rendered after the petition date, including representation in bankruptcy, corporate, litigation and employee benefit matters.

No Adverse Interest

13. To the best of the Debtor's knowledge, except as set forth in the Declaration of Patricia S. Mar ("Mar Declaration"), Morrison and its attorneys do not have any connection with the Debtor, its creditors, shareholders or any other party-in-interest, or their respective attorneys and accountants. In addition, to the best of the Debtor's knowledge, the Morrison attorneys who will appear in the case have no known connection with the United States Trustee or any person employed in the office of the United States Trustee.

14. Based on the Mar Declaration, the Debtor believes that Morrison does not represent interests adverse to the Debtor or its estate in the Chapter 11 proceeding, and that Morrison is a disinterested person as that term is defined in 11 U.S.C. §101(14).

15. The Debtor believes that it is in the best interest of its estate and its creditors for the Debtor to be authorized to employ and retain Morrison as counsel as set forth above.

No Prior Request

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

Notice

17. No trustee, examiner or committee has been appointed in this case. Notice of this Application has been given to the Debtor, its Ohio 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 Nippon Electric Glass Ohio, Inc. respectfully requests that this Court enter an Order, in the form attached hereto as Exhibit A, authorizing the Debtor to employ the law firm of Morrison & Foerster LLP as counsel pursuant to 11 U.S.C. §§ 327(a) and 329 and Local Bankruptcy Rule 2014-1, with compensation and reimbursement of expenses to be paid as an administrative expense in such amounts as may be allowed by the Court upon application, and granting such other and further relief at this Court deems just and proper.

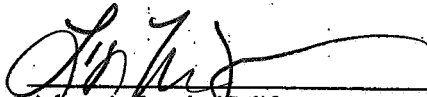
Date: September 9, 2004

Respectfully submitted,

NIPPON ELECTRIC GLASS OHIO, INC.

By: 

Katsuo Takeda, President


Adam A. Lewis (California #88736)
Patricia S. Mar (California #45593)
MORRISON & FOERSTER LLP
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pmar@mofocom

Proposed Counsel for Debtor,
NIPPON ELECTRIC GLASS OHIO, INC.

and

Kenneth R. Cookson (0020216)

Lisa M. Diem (0069283)

KEGLER, BROWN, HILL & RITTER

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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 MORRISON & FOERSTER LLP
AS 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 Morrison & Foerster LLP (“Morrison”), *nunc pro tunc* as of September 1, 2004, as counsel for the Debtor (the “Application”); the Court having reviewed the Application and the Declaration of Patricia S. Mar in support of the Application (the “Mar Declaration”); the Court finding that it has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and that 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 Mar Declaration establish just cause for the relief sought herein;

IT IS, THEREFORE, ORDERED THAT:

1. The Debtor is authorized to employ and retain Morrison as counsel on the terms set forth in the Application.
2. Morrison is authorized to perform any and all legal services for the Debtor that are necessary or appropriate in connection with the Application.
3. Morrison 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. Morrison 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 Morrison of an itemized statement detailing the services performed and expenses incurred in connection with its representation of the Debtor. All monthly payments received by Morrison shall be subject to repayment and to final approval by the Court upon interim and final fee applications by Morrison. Morrison shall serve a copy of the itemized statement upon the United States Trustee, the Debtor, Ohio 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, 33rd Floor
San Francisco, CA 94104

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

Thomson, Inc.
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El Paso, TX 79997

Adam A. Lewis
Patricia S. Mar
MORRISON & FOERSTER_{LLP}
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Blvd. Hector Teran Teran
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Xochimilco, Mexicali, B.C.
Mexico

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Christopher B. Wick, Esq.
Hahn Loeser & Parks LLP
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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 Under 11 U.S.C. §§ 327(a) and 329 Authorizing the Employment of Morrison & Foerster LLP as Counsel for Debtor* 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., 33rd 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 Under 11 U.S.C. §§ 327(a) and 329 Authorizing the Employment of Morrison & Foerster LLP as Counsel for Debtor* 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.

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Attn: Katsuo Takeda
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Patricia S. Mar
Morrison & Forrester LLP
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San Francisco, CA 94104

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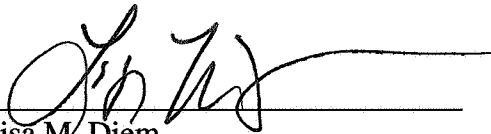
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