

Hearing Date:
June 24, 2004 at 10:30 a.m.
PORTLAND

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

_____)	
In re:)	Chapter 11
PEGASUS SATELLITE TELEVISION, INC., et al.,)	Case No. 04-20878
Debtors.)	(Jointly Administered)
_____)	

APPLICATION FOR ORDER AUTHORIZING THE DEBTORS AND DEBTORS IN POSSESSION TO RETAIN AND EMPLOY HEWITT ASSOCIATES LLC AS COMPENSATION CONSULTANT PURSUANT TO 11 U.S.C. §§ 327(a) AND 328(a)

Pegasus Satellite Television, Inc. and certain of its subsidiaries and affiliates, each a debtor and debtor in possession herein (collectively, the “Debtors”),¹ hereby file this Application (the “Application”) requesting entry of an order authorizing the Debtors to retain and employ Hewitt Associates LLC as expert compensation consultant in these chapter 11 cases pursuant to sections 327(a) and 328(a) of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The facts and circumstances supporting this Application are set forth in (i) the Affidavit of Ted S. Lodge, President, Chief Operating Officer and Counsel of Pegasus Satellite Communications, Inc., in support of First Day Motions and (ii) the Affidavit of C. Lawrence Connolly, III, Corporate Secretary of Hewitt Associates LLC, in Support of Application for Order Authorizing the Debtors and Debtors-in-Possession to Retain And Employ

¹ The Debtors are: Argos Support Services Company, Bride Communications, Inc., B.T. Satellite, Inc., Carr Rural TV, Inc., DBS Tele-Venture, Inc., Digital Television Services of Indiana, LLC, DTS Management, LLC, Golden Sky DBS, Inc., Golden Sky Holdings, Inc., Golden Sky Systems, Inc., Henry County MRTV, Inc., HMW, Inc., Pegasus Broadcast Associates, L.P., Pegasus Broadcast Television, Inc., Pegasus Broadcast Towers, Inc., Pegasus Media & Communications, Inc., Pegasus Satellite Communications, Inc., Pegasus Satellite Television of Illinois, Inc., Pegasus Satellite Television, Inc., Portland Broadcasting, Inc., Primewatch, Inc., PST Holdings, Inc., South Plains DBS, LP., Telecast of Florida, Inc., WDSI License Corp., WILF, Inc., WOLF License Corp., WTLH License Corp.

Hewitt Associates LLC as compensation consultant pursuant to 327(a) and 328(a) of the Bankruptcy Code (the “Connolly Affidavit”), attached hereto as Exhibit A. In further support of this Application, the Debtors respectfully state as follows:

STATUS OF THE CASE AND JURISDICTION

1. On June 2, 2004 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On the Petition Date, the Debtors also jointly filed motions or applications seeking certain typical “first day” orders, including an order to have these cases jointly administered.

2. The Debtors are continuing in possession of their properties and are operating and maintaining their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. No request has been made for the appointment of a trustee or examiner in these cases, and no official committees have yet been appointed by the Office of the United States Trustee.

4. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein is 11 U.S.C. §§ 327(a) and 328(a).

BACKGROUND OF THE DEBTORS

5. Pegasus Satellite Television, Inc. (“PST”), together with its subsidiaries, is the nation’s largest independent provider of DIRECTV® programming. Organized in 1996 as a Delaware Corporation, PST is headquartered in Marlborough, Massachusetts. PST is a wholly owned indirect subsidiary of Pegasus Satellite Communications, Inc.

6. The Debtors' principal operating business is its direct broadcast satellite ("DBS") business.² Specifically, the Debtors provide DIRECTV programming services to rural households across the United States and, as of December 31, 2003, had in excess of 1.1 million subscribers and the exclusive right to distribute DIRECTV services to approximately 8.4 million rural households in certain territories within 41 states.

7. DBS services are digital broadcasting services that require a subscriber to install or have installed a satellite receiving antenna (or dish) and a digital receiver. DIRECTV, in particular, requires subscribers to have a satellite dish, which can be as small as 18 inches in diameter depending on the services received, to which DIRECTV directly transmits programming services via five high power Ku band satellites. The Debtors in turn offer certain core programming packages to subscribers, which vary according to channels delivered and price.

8. The Debtors maintain an independent retail network through dealer relationships to distribute DIRECTV programming. The Debtors have expanded this network to include over 4,000 consumer electronics stores and other independent retailers serving rural areas in the Debtors' service area. Today, the Debtors' retail network is one of the few sales and distribution channels available to digital satellite service providers seeking broad and effective distribution in rural areas throughout the continental United States.

9. As of March 31, 2004, the Debtors had assets aggregating approximately \$1.6 billion related to their DBS business, which generated net revenues of approximately \$831.2 million during calendar year 2003. The Debtors employ approximately 943 employees.

² Debtor Pegasus Media & Communications, Inc. also conducts television broadcast operations through twelve (12) subsidiaries, all of which have filed voluntary petitions under chapter 11 and are Debtors in these cases.

RELIEF REQUESTED

10. By this Application, the Debtors seek entry of an order pursuant to sections 327(a) and 328(a) of the Bankruptcy Code authorizing the employment and retention of Hewitt Associates LLC (“Hewitt”), as of the Petition Date, as compensation consultant in these Chapter 11 cases, in accordance with the terms and conditions of the Master Consulting Agreement attached hereto as Exhibit B (the “Consultant Agreement”). In addition, this Application requests a waiver of certain requirements under Rule 2016-1 of the District of Maine Local Rules (the “Local Rules”).

BASIS FOR RELIEF

11. The Debtors have selected Hewitt based on its experience in providing advice, analysis, and expert testimony with respect to a wide variety of employment related issues including executive compensation, and based on Hewitt’s expertise and experience with executive employment issues with respect to the telecommunications industry in general and the cable and satellite television industries in particular.

12. Indeed, Hewitt is one of the leading executive compensation consulting firms, specializing in, among other things, the analysis of compensation programs to attract, retain, motivate and reward key executives, employees and directors. Founded in 1943, Hewitt’s client roster includes more than half of the Fortune 500 companies and more than a third of the Fortune Global 500 companies. As the largest multi-service human resource delivery provider in the world, Hewitt handles more than 53 million HR-related customer interactions a year from more than 13 million participants. For 60 years, Hewitt has been pioneering HR ideas, services, and products to improve its clients’ business results.

13. Moreover, Hewitt is familiar with the Debtors’ compensation and incentive programs. Through its pre-petition activities, Hewitt’s professionals worked closely

with the Debtors' senior management, financial staff, and other professionals and has become well-acquainted with the Debtors' compensation and incentive programs.

14. Accordingly, the Debtors submit that it is to the benefit of the Debtors, their estates, their creditors and other parties-in-interest that Hewitt be retained in order for Hewitt to analyze whether the Debtors' compensation and incentive programs are reasonable, and whether such programs are comparable to other compensation and incentive programs in the cable and satellite television industry. The Debtors further submit that Hewitt is well qualified to undertake this endeavor.

SERVICES TO BE RENDERED

15. The Debtors have negotiated the terms of the Consultant Agreement, which sets forth the services Hewitt will provide to the Debtors, as well as the manner in which Hewitt will be compensated for its services (the "Contracted Services"). Subject to further order of the Court, Hewitt will be engaged to render the following Contracted Services:

- analyze the Debtors' process for comparing its pay levels to that of the market place. Hewitt will review the analyses and comment on the process used and how that compares to typical studies of this nature;
- independently market price a sample of jobs using its own methodology and techniques. Hewitt will benchmark all officer level jobs (11 incumbents) as well as a sampling of approximately 20% of the remaining 150 jobs that the Debtors had previously benchmarked. Thus, including the officer group, Hewitt will independently benchmark approximately 40 positions. Hewitt's benchmarking of jobs will then be used to compare current pay levels, as well as the competitive data previously collected by the Debtors;
- present a letter that addresses its views of (i) the process used by the Debtors to competitively benchmark pay levels at Debtors, and (ii) the competitive posture of the Debtors' pay programs relative to market.

16. Moreover, under the Consultant Agreement the Debtors -- at their sole option -- may request that Hewitt perform additional services other than the Contracted Services. Such additional services may include, among other things, requesting a Hewitt representative to

testify at a hearing in the Bankruptcy Court relating to its services to the Debtors and assistance with the design/redesign of any severance and/or retention programs that may be contemplated in the future (collectively, the “Additional Services”).

DISINTERESTEDNESS OF PROFESSIONALS

17. To the best of the Debtors’ knowledge, information and belief, Hewitt is not a creditor of the Debtors.

18. To the best of the Debtors’ knowledge, information and belief, Hewitt has no connection with, and holds no interest adverse to the Debtors, their estates, their creditors or any party-in-interest in the matters on which Hewitt is proposed to be engaged, except that Hewitt has rendered services, and may continue to render services, to certain of the Debtors’ creditors or other parties-in-interest as specified in the Connolly Affidavit, in matters wholly unrelated to these cases.

19. Hewitt has further represented to the Debtors that to the best of its knowledge, no partner, principal or staff person of Hewitt has any connection with or holds any interest adverse to the Debtors, their estates, their creditors or any other party-in-interest, or the Office of the United States Trustee or any person employed in the Office of the United States Trustee, in the matters for which Hewitt is proposed to be retained except as disclosed in the Connolly Affidavit.

20. While Hewitt partners and principals may have business associations with certain of the Debtors’ creditors or parties-in-interest herein, such associations have no connection to these proceedings.

21. Hewitt will conduct an ongoing review of its files to ensure that no conflicts or other disqualifying circumstances exist or arise. If any new facts or circumstances are discovered, Hewitt will supplement its disclosure to the Court.

22. Accordingly, to the best of the Debtors' knowledge, information and belief, Hewitt is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code. Moreover, pursuant to section 1107(b) of the Bankruptcy Code, Hewitt's employment by the Debtors prepetition would not disqualify it from being retained by the Debtors pursuant to section 327(a) of the Bankruptcy Code. The Debtors' knowledge, information and belief regarding certain of the matters set forth in this Application are based on, and made in reliance upon, the Connolly Affidavit.

PROFESSIONAL COMPENSATION

23. Section 328(a) of the Bankruptcy Code authorizes the employment of a professional person "on any reasonable terms and conditions of employment, including a retainer." 11 U.S.C. § 328(a).

24. Subject to the Court's approval, the fee for the Contracted Services will be a fixed fee of \$80,000.00, including expenses. In addition, the Debtors respectfully request authority to pay Hewitt its fixed fee in one lump sum payment upon approval of this Application.

25. With respect to the Additional Services, compensation will generally be based on the following the following hourly rates:

<i>Staff Level</i>	<i>Hourly Billing Rate</i>
Lead Compensation Consultants	\$400 - \$600
Junior Compensation Consultants	\$250 - \$400
Compensation Analysts	\$150- \$250
Administrative Assistant(s)	\$100 - \$175

BILLING AND DISCLOSURE

26. The Debtors submit that the fees for the Contracted Services and the Additional Services are reasonable and should only be subject to the standard of review under section 328(a) of the Bankruptcy Code.

27. The Debtors and Hewitt respectfully request a waiver of the requirement of filing a fee application for the Contracted Services and further request a waiver of the requirement to maintain time records in tenth of an hour increments as set forth in Local Rule 2016-1(a)(3)(i). The Debtors understand that it is not general practice of human resource consulting firms to keep detailed time records similar to those kept by attorneys.

28. To the extent that the Debtors request Hewitt to perform the Additional Services, Hewitt respectfully requests that the Court permit it to file a fee application in which Hewitt will include a standard monthly billing statement, which will set forth by general description the services performed, and it will also identify the employees providing the services by name and title, as well as a range of billing rates for those individuals. Moreover, in connection with Local Rule 2014-3, at this juncture it would be impossible to estimate the fees for the Additional Services because it is not known whether the Debtors will engage Hewitt for such services.

29. The Debtors believe the compensation arrangement described herein is reasonable and appropriate for services of this nature and is consistent with the compensation arrangements charged by employee compensation consultants in other cases involving debtors of the same size as the Debtors. Indeed, courts have approved a retention and compensation arrangement for Hewitt that is similar to the arrangement proposed herein. See e.g., In re USG Corp., 01-2094 (JKF) (Bankr. D. Del. May 5, 2004) (order pursuant to sections 327(a) and 328(a) of the Bankruptcy Code approving compensation to Hewitt based upon a fix fee of \$180,000.00).

30. Except as provided above, the Debtors understand that Hewitt intends to apply to the Court for payment of compensation and reimbursement of expenses in accordance with applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure

Bankruptcy Rules (“Bankruptcy Rules”), the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 (the “Fee Guidelines”), the Local Rules, and orders of this Court and as modified by paragraph 29 above.

31. In accordance with section 504 of the Bankruptcy Code, there is no agreement or understanding between Hewitt and any other entity, other than a member, partner or regular associate of Hewitt, for the sharing of compensation received or to be received for services rendered in connection with these proceedings.

NOTICE

32. Notice of this Motion has been given to (i) the United States Trustee for the District of Maine; (ii) the Debtors’ fifty (50) largest unsecured creditors on a consolidated basis, as identified in their chapter 11 petitions; (iii) the administrative agents for the credit facilities of Pegasus Media & Communications, Inc. and Pegasus Satellite Communications, Inc. (“PSC”) (iv) each of the indenture trustees for each series of notes of PSC and (v) those parties in interest who have filed a Notice of Appearance. The Debtors submit that in light of the nature of the relief requested, no further notice is required.

NO PREVIOUS RELIEF REQUESTED

33. No application for the relief requested herein has been made by the Debtors to this or any other court.

WHEREFORE, for the foregoing reasons, the Debtors hereby respectfully request that the Court enter an order approving the retention of Hewitt as compensation consultant in these chapter 11 cases pursuant to sections 327(a) and 328(a) of the Bankruptcy Code and pursuant to the terms and conditions reflected herein, and grant such other and further relief as may be just and proper.

Dated: Bala Cynwyd, Pennsylvania
June 2, 2004

PEGASUS SATELLITE COMMUNICATIONS,
INC.
(for itself and on behalf of its debtor subsidiaries)
Debtors and Debtors in Possession



Ted S. Lodge
President, Chief Operating Officer and Counsel