

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 EMPLOY FTI CONSULTING, INC.
AS FINANCIAL ADVISOR 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 employ and retain FTI Consulting, Inc. as financial advisor 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 Randall S. Eisenberg, Senior Managing Director with FTI Consulting, Inc., in Support of Application for Order Authorizing

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.

the Debtors and Debtors in Possession to Employ and Retain FTI Consulting, Inc. as financial advisor pursuant to 11 U.S.C. §§ 327(a) and 328(a) (the "Eisenberg 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 predicate 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 have 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 FTI Consulting, Inc. (“FTI”) as financial advisor, as of the Petition Date, for the purpose of providing financial advisory and consulting services in these Chapter 11 cases, in accordance with the terms and conditions of the engagement letter annexed hereto as Exhibit B (the “Engagement Letter”).

BASIS FOR RELIEF

11. In light of the size and complexity of these chapter 11 cases, the Debtors require the services of a seasoned and experienced financial advisor. As such, the Debtors have selected FTI based on (i) its vast experience in providing financial advisory services in large and complex chapter 11 cases and (ii) its familiarity with the Debtors’ businesses, finances, capital structure and operations.

12. FTI is a well-respected financial advisory and consulting firm and its professionals have extensive experience working with financially troubled entities in complex financial reorganizations – both in out-of-court restructurings and in chapter 11 proceedings. Professionals at FTI has served, or is serving, as a financial advisor to numerous debtors-in-possession and official creditors’ committees in various chapter 11 proceedings, including: US Airways Group, Inc. (Debtors), Kmart Corporation (Debtors), Federal-Mogul Corporation (Debtors), Babcock & Wilcox Co. (Debtors), Cold Metal Products, Inc. (Debtors), and Pacific Gas and Electric (Creditors’ Committee).

13. Furthermore, FTI is familiar with the Debtors’ businesses and financial affairs. On May 20, 2004, the Debtors engaged FTI to provide certain financial advisory and

consulting services. Since that time, FTI's professionals have worked closely with the Debtors' management team and the Debtors' other professionals, and they have become well acquainted with the Debtors' operations and businesses. Accordingly, FTI has developed significant relevant experience and expertise regarding the Debtors' businesses, operations, finances and capital structure that will assist it in providing effective and efficient services in these cases. Such experience and knowledge will be valuable to the Debtors in their efforts to reorganize and successfully emerge from these chapter 11 proceedings. Accordingly, the Debtors wish to retain FTI to provide assistance during these cases.

SERVICES TO BE RENDERED

14. The Debtors anticipate that FTI will render financial advisory services as needed throughout the course of these chapter 11 cases. The Debtors have negotiated the terms of the Engagement Letter, which sets forth the services FTI will provide to the Debtors, as well as the manner in which FTI will be compensated for its services (the "Services"). Subject to further order of the Court, FTI will be engaged to render, among other things, the following professional Services:

- a. Assistance to the Debtors in the preparation of financial related disclosures required by the Court, including the Schedules of Assets and Liabilities, the Statement of Financial Affairs and Monthly Operating Reports;
- b. Assistance to the Debtors with information and analyses required pursuant to the hearings regarding the use of cash collateral and other financing as deemed necessary;
- c. Assistance with the identification and implementation of short-term cash forecasting and cash management procedures;
- d. Assistance with the identification of executory contracts and leases and performance of cost/benefit evaluations with respect to the affirmation or rejection of each;

- e. Assistance in the preparation of financial information for distribution to creditors and others, including, but not limited to, cash flow projections and budgets, cash receipts and disbursement analysis, analysis of various asset and liability accounts, and analysis of proposed transactions for which Court approval is sought;
- f. Attendance at meetings and assistance in discussions with potential investors, banks and other secured lenders, any official committee(s) appointed in these chapter 11 cases, the U.S. Trustee, other parties in interest and professionals hired by the same, as requested;
- g. Analysis of creditor claims by type, entity and individual claim, including assistance with development of databases, as necessary, to track such claims;
- h. Assistance in the preparation of information and analysis necessary for the confirmation of a plan in these chapter 11 proceedings;
- i. Assistance in the evaluation and analysis of avoidance actions, including fraudulent conveyances and preferential transfers;
- j. Litigation advisory services with respect to accounting and tax matters, along with expert witness testimony on case related issues as required by the Debtors; and
- k. Render such other general business consulting or such other assistance as Debtors' management or counsel may deem necessary that are consistent with the role of a financial advisor and not duplicative of services provided by other professionals in this proceeding.

DISINTERESTEDNESS OF PROFESSIONALS

15. To the best of the Debtors' knowledge, information and belief, FTI has no connection with, and holds no interest adverse to, the Debtors, their estates, their creditors or any party-in-interest in these chapter 11 proceedings or their respective attorneys in the matters on which FTI is proposed to be engaged, except that (i) prior to the commencement of these cases, FTI rendered prepetition services to the Debtors as described above and (ii) FTI has rendered services, and may continue to render services, to certain of the Debtors' creditors or other

parties-in-interest as specified in the Eisenberg Affidavit, in matters wholly unrelated to these cases.

16. FTI has further represented to the Debtors that to the best of its knowledge, no partner, principal or staff person of FTI has any connection with or holds any interest adverse to the Debtors, their estates, their creditors or any other party in interest, or there respective attorneys or accountants, 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 FTI is proposed to be retained except as otherwise disclosed in the Eisenberg Affidavit.

17. While FTI's partners and principals may have business associations with certain of the Debtors' creditors or parties-in-interest, such associations have no connection to these proceedings.

18. Accordingly, to the best of the Debtors' knowledge, information and belief, FTI 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, FTI's representation of the Debtors prepetition would not disqualify it from being retained by the Debtors pursuant to section 327(a) of the Bankruptcy Code.

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

20. 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 Eisenberg Affidavit.

PROFESSIONAL COMPENSATION

21. Section 328 of the Bankruptcy Code provides, in relevant part, that a debtor “with the court’s approval, may employ or authorize the employment of a professional person under section 327 on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis.” 11 U.S.C. § 328(a).

22. As set forth in the Engagement Letter, the hourly rates, subject to periodic adjustment, for the Services rendered in these cases will be as follows:

Senior Managing Directors	\$560-625
Directors / Managing Directors	\$395-560
Associates / Consultants	\$195-385
Administration / Paraprofessionals	\$ 95-168

23. Moreover, the Debtors paid FTI approximately \$265,156.00 for estimated fees and expenses incurred through the commencement of these chapter 11 cases. In addition, prior to the Petition Date, the Debtors remitted \$150,000.00 to FTI as a retainer for FTI’s fees and expenses. FTI will not apply any portion of the retainer as payment for its fees and expenses incurred after the Petition Date, except as authorized pursuant to an order of the Court. The source of the foregoing payments was the Debtors’ cash on hand.

OTHER PROVISIONS

24. The Debtors and FTI have agreed, subject to the Court’s approval of this Application, that: (a) any controversy or claim with respect to, in connection with, arising out of, or in any way related to this Application or the services provided by FTI to the Debtors as outlined in this Application, including any matter involving a successor in interest or agent of any of the Debtors or of FTI, shall be brought in this Court; (b) FTI and the Debtors and any and all successors and assigns thereof, consent to the jurisdiction and venue of the Court, or the

United States District Court, District of Maine (if the reference is withdrawn) (the “District Court”) as the sole and exclusive forum for the resolution of such claims, causes of actions or lawsuits; (c) FTI and the Debtors, and any and all successors and assigns thereof, waive trial by jury, such waiver being informed and freely made; (d) if the Court, or the District Court (if the reference is withdrawn), does not have or retain jurisdiction over the foregoing claims and controversies, FTI and the Debtors, and any and all successors and assigns thereof, will submit first to non-binding mediation; and, if mediation is not successful, then to binding arbitration, in accordance with the dispute resolution procedures contained in the Engagement Letter; and (e) judgment on any arbitration award may be entered in any court having proper jurisdiction. By this Application, the Debtors seek approval of this agreement by the Court. Further, FTI has agreed not to raise or assert any defense based upon jurisdiction, venue, abstention or otherwise to the jurisdiction and venue of the Court or the District Court (if the reference is withdrawn) to hear or determine any controversy or claims with respect to, in connection with, arising out of, or in any way related to this Application or the services provided hereunder.

25. Subject to Court approval, the Debtors agree to indemnify and hold harmless FTI and any of its subsidiaries and affiliates, officers, directors, principals, shareholders, agents, independent contractors and employees (collectively, the “Indemnified Persons”) from and against any and all claims, liabilities, damages, obligations, costs and expenses (including reasonable attorneys’ fees and expenses and costs of investigation) arising out of or relating to FTI’s retention, except to the extent that any such claim, liability, obligation, damage, cost or expense shall have been determined by final non-appealable order of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the

Indemnified Person or persons in respect of whom such liability is asserted (the “Indemnification Provisions”).

26. The Debtors and FTI believe that the Indemnification Provisions are customary and reasonable for financial advisory and investment banking engagements, both out-of-court and in chapter 11 proceedings. See, e.g., In re Comdisco, Inc., No 02-C-1174 (N.D. Ill. September 23, 2002) (affirming order authorizing indemnification of Lazard Freres & Co. LLC and Rothschild, Inc. by debtors and official committee of unsecured creditors); In re United Artists Theatre Company, No. 00-3514-SLR (Bankr. D. Del. Dec. 1, 2000) (order authorizing indemnification of Houlihan, Lokey by debtors); In re Joan & David Halpern, Inc., 248 B.R. 43 (Bankr. S.D.N.Y. 2000), *aff’d*, 2000 WL 1800690 (S.D.N.Y. Dec. 6, 2000).

27. FTI’s engagement hereunder may be terminated by either the Debtors or FTI at any time, upon prior written notice thereof to the other party; provided, however, that termination shall not affect payment of fees actually earned prior to such termination.

BILLING AND DISCLOSURE

28. The Debtors understand that FTI 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 (the “Bankruptcy Rules”), United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 (the “Fee Guidelines”), the District of Maine Local Bankruptcy Rules (the “Local Rules”), and orders of this Court. In connection therewith, subject to application for and allowance by the Court, FTI will receive reimbursement for reasonable and documented out-of-pocket expenses incurred in connection with the services rendered to the Debtors including, without limitation, the reasonable

fees and disbursements of FTI's outside counsel, travel and lodging expenses, and other customary expenditures.

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

30. The Debtors believe that FTI's hourly rates are fair and reasonable in light of industry practice, market rates both in and out of Chapter 11 cases, FTI's experience in reorganizations, the scope of work to be performed pursuant to the FTI's retention and its importance to the Debtors in these chapter 11 cases.

**ENGAGEMENT IS REASONABLE
AND APPROPRIATE UNDER THE CIRCUMSTANCES**

31. For the reasons set forth in the Application, sections 327(a) and 328(a) of the Bankruptcy Code permit the Court to approve the engagement of FTI as set forth in the Engagement Letter, including the compensation and Indemnification Provisions.

32. Accordingly, the Debtors submit that such employment should be granted and approved pursuant to sections 327(a) and 328(a) of the Bankruptcy Code.

NOTICE

33. 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

("PSC") and (iv) each of the indenture trustees for each series of notes of PSC. The Debtors submit that in light of the nature of the relief requested, no further notice is required.

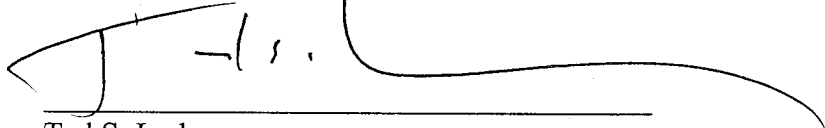
NO PREVIOUS RELIEF REQUESTED

34. 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 FTI as financial advisor to the Debtors 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 4, 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