UNITED STATES BANKRUPTCY COURT DISTRICT OF MAINE

In re: PEGASUS SATELLITE TELEVISION, INC., *et al.*,

Chapter 11 Case No. 04-20878-

Debtors

(Jointly Administered)

UNITED STATES TRUSTEE'S OMNIBUS STATEMENT REGARDING CERTAIN FIRST DAY MOTIONS (WITH CERTIFICATE OF SERVICE)

Pursuant to 28 U.S.C. § 586(a)(3) and 11 U.S.C. § 307, the United States Trustee states

as follows regarding certain of the first day motions filed by Pegasus Satellite Television, Inc., et

al. (collectively "Debtors"):

- **Interim cash collateral order.** The United States Trustee objects to the order to the extent that it provides the Debtors' pre-petition secured creditors with a blanket section 506(c) waiver;
- Motion to continue using pre-petition cash management system. The • United States Trustee does not object to this motion, provided that the Debtors supplement their OIRR obligations by: i) as to Deutsche Bank Account Nos. 00-374-715 and 00-390-707 ("Concentration Accounts"), providing the United States Trustee with copies of monthly bank account statements; ii) evidencing a clear break in check sequence in the Concentration Accounts following the petition date; iii) stamping "Debtor In Possession" on all checks issued from the Concentration Accounts, if applicable; iv) accounting in monthly operating reports for all transfers to non-debtor entities; v) accounting in monthly operating reports for all inter-company transfers, including post-petition inter-company balances; vi) listing, by account number, in monthly operating reports all month end book balances for all Debtor accounts, with an attestation that each account has been reconciled; vii) providing in monthly operating reports all disbursement information by Debtor; viii) providing the United States Trustee with the Debtors' most recent consolidated Federal tax return; ix)

providing the United States Trustee with the applicable Debtors' most recent 941 quarterly payroll returns; and x) providing the United States Trustee with a chart of accounts.

- Motion to pay pre-petition wages. The United States Trustee does not object to this motion, provided that no employee receives more than the \$4,650 (or updated) maximum prescribed by section 507(a) (3) and (4);
- Motions for authorization to pay certain pre-petition taxes, to continue performing under support services agreement with Pegasus Communications Management Company, to honor certain prepetition customer obligations and to pay pre-petition, non-debtor dealer claims. The United States Trustee does not object to these motions, provided that the Debtors can demonstrate (by proffer or otherwise) that their being granted will promote reorganization for preferred and non-preferred creditors consistent with section 363(b)(1). See In re KMart, 359 F.3d 866, 873 (7th Cir. 2004) (stating that "[p]refiling debts are not administrative expenses; they are the antithesis of expenses . . ." and that discriminatory treatment of similarly situated creditors is possible "only if the record shows the prospect of benefit to other creditors . . . ");
- Applications to retain Bernstein, Shur, Sawyer & Nelson, P.A. and Sidley Austin Brown & Wood, LLP as Debtors' counsel. The United States and the Debtors have agreed that the United States Trustee will have until June 11, 2004 to object to these applications for any reason;¹
- Utility motion. No objection.

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¹ See 11 U.S.C. § 327(a); Rome v. Braunstein, 19 F.3d 54, 57 – 58 (1st Cir. 1994) (analyzing professional employment qualifications under section 327(a)); In re Pillowtex, Inc., 304 F.3d 246, 255 (3rd Cir. 2002) (remanding for a determination whether professional had received a preference and was therefore disqualified from serving under 11 U.S.C. § 327(a), stating that "[w]e hold that when there has been a facially plausible claim of a substantial preference, the district court and/or the bankruptcy court cannot avoid the clear mandate of the statute by the mere expedient of approving retention conditional on a later determination of the preference issue").

Respectfully submitted,

PHOEBE MORSE

United States Trustee

By: <u>/s/ Eric K. Bradford</u> Eric K. Bradford BBO#560231 Robert Checkoway Assistant United States Trustee United States Department of Justice J. Brown Building 537 Congress Street, Suite 303 Portland, ME 04101 (207) 780-3564

Dated: June 4, 2004.

CERTIFICATE OF SERVICE

I certify that on June 4, 2004, a true and correct copy of the UNITED STATES TRUSTEE'S OMNIBUS STATEMENT REGARDING CERTAIN FIRST DAY MOTIONS was served via ECF upon the individuals listed below and others registered with the Clerk.

PHOEBE MORSE

United States Trustee

By: <u>/s/ Eric K. Bradford</u> Eric K. Bradford BBO#560231 Robert Checkoway Assistant United States Trustee United States Department of Justice J. Brown Building 537 Congress Street, Suite 303 Portland, ME 04101 (207) 780-3564

Dated: June 4, 2004.

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