

Hearing Date: March 3, 2005 at 10:00 a.m.
Objections Due: February 25, 2005 at 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re

RCN CORPORATION, *et al.*,

Debtors.

x Chapter 11 Case No.
: 04-13638 (RDD)
:
:
x Jointly Administered

**NOTICE OF FINAL APPLICATION OF WINSTON & STRAWN LLP, COUNSEL TO
THE BOARD DIRECTORS OF RCN CORPORATION, ET AL., FOR
COMPENSATION AND REIMBURSEMENT OF EXPENSES**

PLEASE TAKE NOTICE that on February 4, 2005, Winston & Strawn LLP filed the Final Application of Winston & Strawn LLP Seeking Allowance of Fees for Professional Services Rendered and Disbursements Incurred as Counsel for the Board of Directors of RCN Corporation, et al. for the Period from June 7, 2004 through December 16, 2004 (the "Final Application").

PLEASE TAKE FURTHER NOTICE that responses to the Application, if any, shall be filed in writing with the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004 (the "Bankruptcy Court"), and served upon (i) Winston & Strawn LLP, 200 Park Avenue, New York, New York 10166 (Attention: Robert Bostrom, Esq.); (ii) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036 (Attention: D.J. Baker, Esq. and Frederick D. Morris, Esq.); (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attention: Paul K. Schwartzberg, Esq.); (iv) Milbank, Tweed, Hadley & McCloy, counsel to the unofficial committee of noteholders, 1 Chase Manhattan Plaza, New York, New York 10005 (Attention:

Dennis Dunne, Esq.); (v) counsel to any other statutory committees appointed in these cases; (vi) Simpson Thacher & Bartlett, counsel to the agent for the Debtors' prepetition credit facility, 425 Lexington Avenue, New York, New York 10017-3954 (Attention: Peter V. Panteleo, Esq.); (vii) HSBC Bank USA, the indenture trustee for the Debtors' outstanding debt securities, 452 Fifth Avenue, New York, New York 10001 (Attention: Issuer Services), is to be received **no later than 4:00 p.m. Eastern time on February 25, 2005** (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that if no responses to the Final Application are timely filed and served in accordance with the procedures set forth herein, the Bankruptcy Court may enter an Order granting the Application without further notice. If a response is properly filed and served in accordance with the procedures set forth herein, a hearing with respect to the Application will be held on **March 3, 2005 at 10:00 a.m.** Eastern time at the Bankruptcy Court before the Honorable Robert D. Drain, United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004. Only those responses made in writing and timely filed and received will be considered by the Bankruptcy Court at such hearing.

Dated: New York, New York
February 4, 2005

Winston & Strawn LLP

/s/ David Neier

David Neier (DN5391)

(A Member of the Firm)

Robert Bostrom (RB3118)

200 Park Avenue

New York, New York 10166

(212) 294-6700

Attorneys for Board of Directors of RCN
Corporation et al.

Total Amount of Compensation
(20% and 50% holdback) sought:

\$ 265,326.95

This is an:

interim

final application

Prior Interim Fee Applications: One

**Cumulative Summary of Monthly Fee Statements¹ Submitted
by Winston & Strawn LLP for Services Rendered and
Reimbursement of Expenses as Counsel to the Board
of Directors of RCN Corporation, et al.:**

<u>Date of Filing</u>	<u>Period Covered</u>	<u>Total Fees Sought</u>	<u>Total Expenses Sought</u>	<u>Fees Paid (80%)</u>	<u>Fees Paid (50%)</u>	<u>Expenses Paid (100%)</u>	<u>Holdback Sought</u>
8/20/04	6/7/04-7/31/04	\$398,099.50	\$1,037.89	\$318,479.60		\$1,037.89	\$79,619.90
9/20/04	8/1/04-8/31/04	\$235,257.75	\$8,556.38	\$188,206.20		\$8,556.38	\$47,051.55
10/11/04	9/1/04-09/30/04	\$160,540.50	\$6,781.66	\$128,432.40		\$6,781.66	\$32,108.10
11/16/04	10/1/04-10/31/04	\$174,662.00	\$8,347.97	\$139,729.60		\$8,347.97	\$34,932.40
12/16/04	11/1/04-11/30/04	\$138,506.00	\$5,932.56		\$69,253.00	\$5,932.56	\$69,253.00
12/27/04	12/1/04-12/16/04	\$4,724.00	\$941.99		\$2,362.00	\$941.99	\$ 2,362.00
Totals		\$1,111,789.75	\$31,598.45	\$774,847.80	\$71,615.00	\$31,598.45	\$265,326.95

¹ The monthly fee statements filed by Winston & Strawn LLP for each of the periods from June 7, 2004 through December 16, 2004 (each, a "Monthly Fee Statement" and collectively, the "Monthly Fee Statements") are attached hereto as Exhibits "A", "B", "C", "D", "E" and "F", respectively. The Monthly Fee Statements will not be filed on the Court's ECF system. Service of the Monthly Fee Statements will be on all parties listed on the Notice of Motion. Other parties that wish to receive copies of the Monthly Fee Statements may request them in writing.

In re: RCN Corporation, et al.
Cumulative Compensation Summary by Project
Category for the Period from June 7, 2004 through September 30, 2004

<u>PROJECT CATEGORY</u>	<u>HOURS</u>	<u>FEES</u>
B110 - Case Administration	319.2	\$170,765.00
B120 - Asset Analysis & Recovery	27.4	\$15,005.00
B140 - Relief From Stay	12.9	\$3,289.50
B150 - Meetings of & Communications with Creditors	3.0	\$900.00
B160 - Fee/Employment Applications	176.0	\$54,950.00
B170 - Fee/Employment Objections	12.0	\$6,480.00
B190 - Other Contested Matters (excluding Assumption/Rejection Motions)	363.3	\$188,152.50
B195 - Non-Working Travel	5.3	\$1,431.00
B210 - Business Operations	785.5	\$465,704.00
B220 - Employee Benefits/Pensions	3.2	\$1,825.50
B250 - Real Estate	2.5	\$1,450.00
B320 - Plan and Disclosure Statement	367.3	\$201,837.25
Totals:	2,070.3	\$1,111,789.75

**TIME SUMMARY TO INTERIM FEE APPLICATION OF WINSTON & STRAWN LLP
FOR PERIOD FROM JUNE 7, 2004 THROUGH SEPTEMBER 30, 2004**

Name of Professional	Year of Admission	Hourly Billing Rate²	Total Hours Billed³	Total Compensation
<u>Partners</u>				
Robert Bostrom	1980	\$620.00	1,088.7	\$674,994.00
Matthew Botica	1975	550.00	106.20	58,410.00
David Kroenlein		570.00	4.7	2,679.00
Robert Fischler	1986	570.00	63.6	36,252.00
Jeffrey Elkin	1971	545.00	4.3	2,343.50
David Neier	1986	540.00 270.00	329.6 5.3	177,984.00 1,431.00
Lori Van Auken	1986	520.00	115.9	60,268.00
Neil Underberg	1952	520.00	1.0	520.00
Morris Simkin	1974	495.00	23.5	11,632.50
David Wirt	1991	495.00	12.2	6,063.75
Loran Thompson	1977	495.00	44.4	21,978.00
Michael Melberger	1983	495.00	.5	247.50
	Subtotal Partner		1,799.9	\$1,054,803.25

² The rates below are the guideline hourly professional and paraprofessional fee rates used in the bundled rate structure described under "Professional Services" below.

³ Time summaries of the charges attributable to each professional and paraprofessional for each matter during the Final Period are included with the Monthly Fee Statements.

Name of Professional	Year of Admission	Hourly Billing Rate²	Total Hours Billed³	Total Compensation
<u>Associates</u>				
Naima Walker	2002	395.00	6.5	\$2,567.50
Kimberly Chapman	1999	350.00	5.4	1,890.00
Mayer Naiman	1993	350.00	3.6	1,260.00
Alexis Lury	2001	325.00	4.5	1,462.00
Timothy Dart	1996	300.00	3.00	900.00
Kerrick Seay	2002	295.00	4.6	1,357.00
Michael Jones	2001	285.00	39.9	11,371.50
Heather Fong	2003	255.00	14.4	3,672.00

Name of Professional	Year of Admission	Hourly Billing Rate²	Total Hours Billed³	Total Compensation
Sarah Trum	2002	255.00	19.9	5,074.50
	Subtotal Associate		101.8	\$29,555.00
<u>Paraprofessionals</u>				
Daphne Morduchowitz	Paralegal	215.00	15.5	\$3,332.50
Leon Busteed	Paralegal	165.00	.4	66.00
Sandy Lee	Paralegal	160.00	.5	80.00
Denise Cunsolo	Paralegal	160.00	88.6	\$14,176.00
Nell Hanlon	Paralegal	145.00	13.0	1,885.00
Alan Walz	Paralegal	140.00	1.0	140.00
Robert Corallo	Paralegal	140.00	1.5	210.00
Marc Saget	Paralegal	105.00	2.8	294.00
	Subtotal Paraprofessional		168.6	\$27,431.50
	Total		2,070.3	\$1,111,789.75

RCN Corporation, et al.

DISBURSEMENT SUMMARY OF EXPENSES

(June 7, 2004 through December 16, 2004)⁴

Air Fare	\$ 4,027.86
Business Meals ⁵	\$ 5,938.87
Local Travel Expense	\$ 1,032.05
Lodging Expense	\$ 2,139.77
Telephone/Telecom Service	\$ 713.48
Messenger Service	\$ 89.47
Printing/Reproduction (\$.10 per page)	\$ 2,442.80
Facsimile (\$1.00 per page) ⁶	\$ 121.10
Secretarial Overtime	\$ 715.50
Overtime Word Processing	\$ 159.00
Air Courier ⁷	\$ 725.20
Attorney Dining Room Expense	\$ 60.00
Other Travel Expenses	\$ 42.00
Overtime Meals	\$ 113.36
Overtime Transportation	\$ 5,371.05
Computerized Legal Research	\$ 7,845.02
Transcript Fees	\$ 80.62
<u>Grand Total:</u>	<u>\$ 31,598.45</u>

⁴ Winston & Strawn LLP bills clients for reasonable charges and disbursements incurred in connection with an engagement. Clients are billed for external charges at the actual cost billed by vendors, or, in the case of telephone calls, at the approximate tariff rate. The disbursements and charges reflected on this statement are only those that have been booked at the end of the billing period. Due to normal bookkeeping procedures, many charges and disbursements are not billed until later periods. Winston & Strawn LLP reserves the right to amend the amounts listed herein to include previously unbilled disbursements.

⁵ Business meals are charged to a client if an attorney is meeting with a client during breakfast, lunch or dinner.

⁶ Winston & Strawn LLP seeks reimbursement for outgoing facsimile transmissions only.

⁷ Air couriers are used only when first class mail, facsimile or email are impracticable and the exigencies of time require this form of delivery. Couriers are used only then time is of the essence.

WINSTON & STRAWN LLP
 Attorneys for Board of Directors of RCN Corp.
 200 Park Avenue
 New York, New York 10166
 (212) 294-6700
 David Neier, Esq. (DN 5391)
 Robert Bostrom, Esq. (RB 3118)

UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK

In Re	x	Chapter 11 Case No.
	:	04-13638 (RDD)
RCN CORPORATION, <i>et al.</i> ,	:	
	:	
Debtors.	:	Jointly Administered
	:	
	:	
	x	

FINAL APPLICATION OF WINSTON & STRAWN LLP, COUNSEL TO THE BOARD OF DIRECTORS OF RCN CORPORATION, ET AL., FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

TO THE HONORABLE ROBERT D. DRAIN
 UNITED STATES BANKRUPTCY JUDGE:

Pursuant to 11 U.S.C. §§ 330 and 331, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and this Court's June 22, 2004 Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (the "Administrative Order"), the law firm of Winston & Strawn LLP ("W&S") hereby submits this Final application ("Final Application") for an Order allowing and awarding it interim compensation for legal services rendered as counsel to the Board of Directors (the "Board") of RCN Corporation, et al. (the "Debtors"), in an amount of \$1,111,789.75 together with reimbursement of W&S's actual and necessary expenses incurred in the amount of

\$31,598.45 for the period commencing June 7, 2004 through and including December 16, 2004 (the "Period") and directing payment of such fees and expenses.

Annexed to the front of this Final Application is:

(a) a schedule setting forth all W&S professionals and paraprofessionals who have performed services in these chapter 11 cases during the Final Period, the capacities in which each individual is employed, the hourly billing rate charged by W&S for services performed by each individual, the aggregate number of hours expended during the Final Period and the fees billed, and the year in which each professional was first licensed to practice law;

(b) a schedule specifying the categories of expenses for which W&S is seeking reimbursement and the total amount for each expense category; and

(c) a summary of W&S' time records billed during the Final Period, including utilization of project categories as hereinafter described.

In support of this Final Application, W&S respectfully represents as follows:

Jurisdiction

1. The Court has jurisdiction to consider the application pursuant to 28 U.S.C. §§ 157 and 1334. This Final Application constitutes a core proceeding under 28 U.S.C. §157(b)(2)(A) and (B). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. On May 27, 2004 (the "Petition Date"), the Debtors filed their respective voluntary petitions with this Court for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

3. From the Petition Date through the date of this Final Application, the Debtors have continued to operate their businesses and manage their properties as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

4. No trustee or examiner has been appointed in these chapter 11 cases. On June 10, 2004, the committee of unsecured creditors (the "Committee") was appointed by the United States Trustee for the Southern District of New York (the "United States Trustee") pursuant to Section 1102 of the Bankruptcy Code. No other official committees have been appointed or designated in these chapter 11 cases.

5. On July 9, 2004 the Debtors and Committee filed and served the Application To Retain Winston & Strawn LLP As Special Counsel To Board of Directors of RCN Corporation, et al. (the "Retention Application") seeking authorization to employ W&S as special counsel *nunc pro tunc* to June 7, 2004. On July 30, 2004 this Court entered an Order approving the Retention Application. A copy of the order is not attached hereto as it was filed under seal for reasons of confidentiality.

Relief Requested

6. Through this Final Application, W&S seeks allowance of \$1,111,789.75 fees for services rendered during the Period and reimbursement of \$31,598.45 for reasonable and necessary expenses incurred during the Period. Thus, W&S seeks allowance and payment in the total amount of \$1,143,388.20.

7. W&S has received neither payment nor promises of payment from any source for services rendered during the Period in connection with these cases, other than the amount indicated on the coversheet to this Final Application. There is no agreement or understanding

between W&S and any other person for the sharing of any compensation to be received for services rendered by W&S in these cases.

8. All services for which compensation is requested by W&S pursuant to this Final Application were performed for or on behalf of the Board in these cases.

Summary of Services Rendered

9. W&S maintains detailed records of the time spent in the rendition of professional services for the Board during the Period. Attached hereto as Exhibit "A", "B", "C", "D", "E" and "F" and incorporated herein by reference are true and correct copies of the monthly fee statements prepared for the services rendered in this case by W&S during the Period (collectively the "Monthly Fee Statements"). The Monthly Fee Statements are in the same form regularly used by W&S to bill its clients for services rendered and includes the date that the services were rendered, a detailed, contemporaneous narrative description of the services, the amount of time spent for each service and the designation of the professional who performed the service.

10. As set forth on the schedules attached to the Application, W&S rendered 2,070.3 hours of professional services during the Period, resulting in legal fees totaling \$1,111,789.75 and associated reasonable and necessary expenses totaling \$31,598.45.

(a) Additionally, as set forth on the schedules attached to the Application are the costs for the expenses incurred by W&S during the Period for which reimbursement is requested pursuant to this Final Application.

11. A schedule summarizing by category the expenses incurred by W&S during the Final Period for which reimbursement is requested. Further supporting documentation is available upon request.

12. The general areas in which W&S has rendered professional services to the Board during the Period may be broadly characterized as follows:

- ? daily contact with Board involving informing and consulting members re: fiduciary duties under the Bankruptcy Code, Chapter 11 bankruptcy process as it relates to business going forward and business/bankruptcy strategy;
- ? supervised appropriate service of pleadings and notices
- ? performed general document review and maintained project list, case calendar, and case docket of documents filed with the Court;
- ? prepared agendas, various presentations and attended all Board Meetings either telephonically or personally;
- ? conducted numerous internal team meetings to discuss case strategy and possible causes of action;
- ? reviewed and analyzed all retention applications of professionals, attention to preparation of all Monthly Fee Statements;
- ? performed legal research on various topics, including D&O insurance, audit committee issues, as well as contract rights as they relate to StarPower deal;
- ? attended to other miscellaneous matters, including but not limited to preparation and distribution of monthly fee statements and interim and final fee applications.;
- ? participated in all plan negotiations, reviewed and commented on several rounds of plan of reorganization drafts, attended numerous meetings and teleconferences regarding plan strategy, negotiations, financial outlook presentations and steering committee issues;

- ? attended and participated in meetings and teleconferences with Aon Corp. regarding D&O insurance issues, prepared and filed motion relating to same;
- ? reviewed various legal documents and agreements relating to StarPower Operating Agreement, Pepco, Corvis and D. E. Shaw;
- ? explored disposition of RCN Entertainment for Board;
- ? extensively analyzed and researched D&O, ERISA and class action issues.

13. More specifically, in connection with its retention W&S reviewed, analyzed, conducted extensive legal research and advised the Board of Directors with regard to the following D&O threats, claims and actions against certain current and former members of the Board:

- ? Debra K. Craig v. John D. Filipowicz, et al.
- ? Stephen Thomas v. David C. McCourt, et al.
- ? Robert M. McGuire v. John D. Filipowicz, et al.
- ? Harold Hill v. David C. McCourt, et al.
- ? Edward T. Joyce v. RCN Telecom Services of Illinois, LLC
- ? Stephen Lee v. RCN Corporation, et al.

14. Numerous issues arose in connection with negotiation of the Plan. Although the Court and other interested parties have only seen the end result of those negotiations -- a successful confirmation of a consensual Plan, that was only the product of a substantial amount of time and effort on the part of the Board and its counsel. These issues are of a highly sensitive nature that the Debtors, the Committee and the Bank Group are all aware of. To the extent that

any objection is filed or the Court wishes to make further inquiry, W&S requests the opportunity to be heard *in camera* and to present evidence in connection therewith.

15. Numerous issues arose in connection with the Auditor, Audit and Compensation Committees which required W&S to advise the Board on what course of action to take. These issues are of a highly sensitive nature that the Debtors, the Committee and the Bank Group are all aware of. To the extent that any objection is filed or the Court wishes to make further inquiry, W&S requests the opportunity to be heard *in camera* and to present evidence in connection therewith.

16. W&S reviewed all D&O insurance policies and negotiated extensively with bondholders, banks, brokers and carriers toward resolution of the outstanding issues. These issues are of a highly sensitive nature that the Debtors, the Committee and the Bank Group are all aware of. To the extent that any objection is filed or the Court wishes to make further inquiry, W&S requests the opportunity to be heard *in camera* and to present evidence in connection therewith.

17. Finally, W&S's services in connection with the D&O plan releases and injunction issues played an integral role in confirmation of these Debtors' cases. These issues are of a highly sensitive nature that the Debtors, the Committee and the Bank Group are all aware of. To the extent that any objection is filed or the Court wishes to make further inquiry, W&S requests the opportunity to be heard *in camera* and to present evidence in connection therewith.

18. The generality of the foregoing descriptions are further amplified on a day-to-day basis by the Monthly Fee Statements attached as Exhibit "A", "B", "C", "D", "E" and "F".

19. On June 22, 2004, the Court entered the Administrative Order, which set forth a procedure for compensating professionals (on an interim basis) for 80% of fees and 100% of

expenses incurred. On October 26, 2004, W&S filed a First Interim Application For Compensation and Reimbursement of Expenses (the "First Interim Application"). A hearing on the First Interim Application was held on November 18, 2004 at which the objection filed by the Creditors' Committee was heard. The Court ordered that W&S was required to have 50% of its monthly fees subject to holdback. To date, W&S received the sum of \$516,280.07 as and for compensation. On November 23, 2004, W&S disgorged funds in the amount of \$142,955.26 back to the Debtors pursuant to the Court's direction at the November 18, 2004 hearing. The Administrative Order specifically provides that all fees and expenses received remain subject to the Court's final allowance. Thus, in this Final Application, W&S seeks allowance of \$1,111,789.75 in fees and \$31,598.45 in expenses for a total allowance of \$1,143,388.20.

Statements of Winston & Strawn LLP

20. No agreement or understanding prohibited by section 504 of the Bankruptcy Code exists between W&S and any other person for a sharing of compensation received or to be received for services rendered in or in connection with these chapter 11 cases, nor shall W&S share or agree to share the compensation paid or allowed from the Debtors' estates for such services with any other person in contravention of section 504 of the Bankruptcy Code. No agreement or understanding prohibited by 18 U.S.C. § 155 has been made by W&S.

21. Pursuant to Bankruptcy Rule 2016, W&S states that no payments have heretofore been made or promised to W&S for services rendered or to be rendered in any capacity in connection with these chapter 11 cases except as previously stated herein.

Waiver of Memorandum of Law

22. Pursuant to Local Bankruptcy Rule for the Southern District of New York 9013-1(b), because there are no novel issues of law presented by this Application, W&S respectfully

requests that the Court waive the requirement that W&S file a memorandum of law in support of this Application.

Notice

23. Copies of this Application have been provided to the notice parties listed in paragraph 2(a) of the Administrative Order. Pursuant to paragraph 6 of the Administrative Order, a notice of hearing, to consider this and other professionals' applications for interim compensation has been served and filed on the notice parties. W&S submits that this is good and sufficient notice and no other or further notice is necessary.

Allowance of Compensation

24. W&S has represented the Board in the most expeditious and economical manner possible. Further, the professionals at W&S have coordinated their activities with co-counsel to avoid duplication of effort on behalf of the Board whenever possible.

CONCLUSION

WHEREFORE, Winston & Strawn LLP respectfully requests that the Court enter an Order approving this Final Application and directing payment by the Debtors in the amounts set forth herein for fees and expenses, and granting such other and further relief as the Court deems just and proper.

Dated: February 4, 2005

WINSTON & STRAWN LLP
Counsel for the Board of Directors of RCN
Corporation, et al.

/s/ David Neier

Robert E. Bostrom (RB 3118)

David Neier (DN 5391)

(Members of the Firm)

200 Park Avenue

New York, NY 10166

212-294-4700

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In Re

RCN CORPORATION, *et al.*,

Debtors.

x Chapter 11 Case No.
: 04-13638 (RDD)
:
:
: Jointly Administered
:
:
:
x

**CERTIFICATION PURSUANT TO GUIDELINES FOR FEES
AND DISBURSEMENTS FOR PROFESSIONALS IN RESPECT
TO FINAL APPLICATION OF WINSTON & STRAWN LLP
FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

I, David Neier, hereby certify that:

1. I am a partner at Winston & Strawn LLP ("W&S") and the professional designated by the applicant W&S with responsibility for the Board of Directors of RCN Corporation, et al. ("RCN" or "Debtor") in respect to compliance with the Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases adopted by the Court on April 19, 1995 (the "Local Guidelines") and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, adopted on January 30, 1996 (the "UST Guidelines").

2. This certification is made with respect to W&S' Final application, dated February , 2005 (the "Application") including the exhibits annexed thereto, for final compensation and reimbursement of expenses for the period commencing June 7, 2004 through December 16, 2004 in accordance with the Local Guidelines.

3. With respect to Section B.1 of the Local Guidelines, I certify that:

(a) I have read the Application;

(b) to the best of my knowledge, information, and belief formed after reasonable inquiry, the fees and disbursements sought fall within the Local Guidelines;

(c) the fees and disbursements sought are charged in accordance with practices customarily employed by W&S and generally accepted by W&S clients; and

(d) in providing a reimbursable service, W&S does not make a profit on that service, whether the service is performed by W&S in-house or through a third party.

4. With respect to section B.2 of the Local Guidelines, I certify that:

(a) The United States Trustee for the Southern District of New York (the "US Trustee"), the Debtors, counsel for the Debtors, counsel for the Committee and counsel for the agent of the Debtors' pre-petition credit facility have each been provided on a monthly basis with a statement of W&S' fees and disbursements accrued during the previous month in accordance with the Court's Administrative Order Under 11 U.S.C. §§ 105 and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals dated June 22, 2004 (the "Administrative Order"); and

(b) the statement contained lists of professionals providing services, the aggregate hours spent by each professional, a general description of the services rendered, a reasonably detailed breakdown of the disbursements incurred, and an explanation of billing practices.

5. With respect to section b.3 of the Local Guidelines, I certify that the US Trustee, the Debtors, counsel for the Debtors, counsel for the Committee and counsel to the agent for the Debtors' pre-petition credit facility are each being provided with a copy of this Application in accordance with the Administrative Order.

6. By this certification, W&S does not waive or release any rights or entitlements it has under the order of this Court dated July 3, 2004, approving W&S' retention as special counsel to the Board of Directors of Debtors, effective as of June 7, 2004.

Dated: New York, New York
February 4, 2005

/s/ David Neier
David Neier