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**UNITED STATES BANKRUPTCY COURT**
**NORTHERN DISTRICT OF TEXAS**
**DALLAS DIVISION**

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| **IN RE:** | **Chapter 11** |
| **TRIDIMENSION ENERGY, L.P., *et al.*,[1]** | **Case No. 10-33565-SGJ-11** |
| **DEBTORS.** | **Jointly Administered** |

# MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR ORDER CLARIFYING REQUIREMENT TO PROVIDE ACCESS TO INFORMATION

The Official Committee of Unsecured Creditors (the "**Committee**") appointed in these cases, by and through counsel, hereby moves this Court for entry of an order substantially similar to the form attached hereto as Exhibit A pursuant to 11 U.S.C. §§ 105(a), 107(b), 1102(b)(3)(A), and 1103(c) clarifying the requirement to provide access to information for creditors. In support of this motion (the "**Motion**"), the Committee respectfully represents as follows:

[1] The Debtors are the following entities: TriDimension Energy, L.P.; TDE Property Holdings, LP; Axis E&P, LP; Axis Onshore, LP; Axis Marketing, LP; Ram Drilling, LP; TDE Subsidiary GP LLC; and TDE Operating GP LLC.

## I.
## JURISDICTION AND VENUE

1. The Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 1334 and 157. These matters concern the administration of these bankruptcy estates; accordingly, these are core proceedings pursuant to 28 U.S.C. § 157(b)(2)(A) and (b). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The predicate for the relief requested herein is 11 U.S.C. §§ 105(a), 107(b), 1102, and 1103.

## II.
## BACKGROUND

2. On May 21, 2010 (the "**Petition Date**"), the Debtors each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), thereby commencing the above-captioned bankruptcy cases (the "**Cases**").

3. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Cases.

4. The Committee was appointed on June 2, 2010. The Committee is comprised of the following members: Weatherford International, Precision Drilling Company L.P., Miss Lou Oil Well Supply, Hamilton Acquisitions, Inc., Schlumberger Technology Corp., X-Chem, Baker Hughes Incorporated, XTO Energy Inc., and Stokes & Spiehler Onshore Inc.

## III.
## RELIEF REQUESTED

5. Pursuant to section 1103(c), the Committee is authorized to, among other things, consult with the Debtors, investigate the Debtors, participate in the formulation of a plan, and

perform such other services that are in the best interests of those represented. *See* 11 U.S.C. § 1103(c).

6. As part of the Committee's duties, pursuant to section 1102(b)(3)(A), the Committee is required to provide "access to information" for creditors of the Debtors who hold claims of the kind represented by the Committee and are not appointed to the Committee. *See* 11 U.S.C. § 1102(b)(3)(A).

7. By this Motion, the Committee seeks entry of an order *effective as of* June 2, 2010, that does the following: (a) clarifies the Committee's obligations under section 1102(b)(3)(A) and (B) of the Bankruptcy Code; (b) institutes uniform procedures under section 1102(b) that will assure the Court, creditors, and the Committee that the Committee's obligations under section 1102(b)(3)(A) and (B) are being satisfied; (c) helps ensure that confidential, privileged, proprietary and/or material nonpublic information will not be disseminated to the detriment of the Debtors' estates; (d) aids the Committee in performing its statutory duties; and (e) creates a cost-effective and efficient process by which the Committee can comply with its obligations under section 1102(b)(3)(A).

## IV.
## SECTION 1102(b)(3)(A)

8. On April 20, 2005, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("**BAPCPA**") was enacted. BAPCPA became effective on October 17, 2005, and, among many other things, modified the Bankruptcy Code to include additional duties imposed on any statutory committee. For example, section 1102(b) of the Bankruptcy Code was modified

to impose on statutory committees a duty to provide non-committee member creditors access to information. The new provision states:

> (3) A committee appointed under subsection (a) shall—
> (A) provide access to information for creditors who—
> (i) hold claims of the kind represented by that committee; and
> (ii) are not appointed to the committee;
> (B) solicit and receive comments from the creditors described in subparagraph (A); and
> (C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).[2]

9. Section 1102(b) does not, however, define or explain "access to information." Nor does that section indicate the nature, scope, or extent of "information" that a statutory committee must provide to the creditors it represents. Moreover, the legislative history of section 1102(b) is devoid of guidance on these issues. For these reasons, it is unsurprising that numerous debtors and official committees have sought relief similar to the relief requested herein.[3]

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[2] 11 U.S.C. § 1102(b)(3) (2005).

[3] A non-exhaustive list of such cases is: *In re Crusader Energy Group Inc.*, Case No. 09-31797 (Bankr. N.D. Tex.), filed March 30, 2009; *In re The Bombay Co., Inc.*, Case No. 07-44084 (Bankr. N.D. Tex.), filed September 20, 2007; *In re Senior Management Services of Treemont, Inc.*, Case No. 07-30230 (Bankr. N.D. Tex.), filed February 6, 2007; *In re Brook Mays Music Company*, Case No. 06-32816 (Bankr. N.D. Tex.), filed July 11, 2006; *In re Refco Inc.*, Case No. 05-60006 (Bankr. S.D.N.Y.), filed October 17, 2005; *In re Flyi, Inc.*, Case No. 05-20011 (Bankr. D. Del.), filed November 7, 2005; *In re Amcast Automotive of Indiana, Inc.*, Case No. 05-33322 (Bankr. S.D. Ind.), filed December 1, 2005; *In re Nobex Corporation*, Case No. 05-20050 (Bankr. D. Del.), filed December 1, 2005; *In re Calpine Corporation*, Case No. 05-60200 (Bankr. S.D.N.Y.), filed December 20, 2005; *In re Musicland Holding Corp.*, Case No. 06-10064 (Bankr. S.D.N.Y.), filed January 12, 2006; *In re Airway Industries, Inc.*, Case No. 06-20224 (Bankr. W.D. Pa.), filed January 20, 2006; *In re G+G Retail, Inc.*, Case No. 06-10152 (Bankr. S.D.N.Y.), filed January 25, 2006; *In re Nellson Nutraceutical, Inc.*, Case No. 06-10072 (Bankr. D. Del.), filed January 28, 2006; *In re Riverstone Networks, Inc.*, Case No. 06-10110 (Bankr. D. Del.), filed February 7, 2006; *In re Dana Corporation*, Case No. 06-10354 (Bankr. S.D.N.Y.), filed March 3, 2006; *In re Silicon Graphics, Inc.*, Case No. 06-10977 (Bankr. S.D.N.Y.), filed May 8, 2006; *In re Radnor Holdings Corp.*, Case No. 06-10894 (Bankr. D. Del.), filed August 21, 2006; *In re The Rowe Companies*, Case No. 06-11142 (Bankr. E.D. Va.), filed September 18, 2006.

10. The lack of specificity in section 1102(b)(3)(A) creates significant issues for debtors and official committees. Typically, a debtor will share significant confidential and other non-public proprietary information with a creditors' committee to assist the committee in fulfilling its role in the chapter 11 process. Creditors' committees may use this information to assess, among other things, a debtor's capital structure, opportunities for the restructuring of the debtor's business in chapter 11, asset sales prospects, the results of any operations of the debtor in the bankruptcy case and the debtor's overall prospects for reorganization under a chapter 11 plan. In addition, creditors' committees typically execute confidentiality agreements or enter into other similar arrangements with debtors.[4] Through these agreements and other arrangements, a debtor can ensure that the committee and its members and advisors will keep the debtor's sensitive information confidential and will not use that information except in connection with the chapter 11 case and on terms acceptable to the debtor. Although the Committee does not believe that such an interpretation of section 1102(b)(3)(A) can be supported, it recognizes that, given the importance of the issue, and lack of clarity in the statute, there is need to clarify the scope of the new section until an "information-sharing" protocol can be established.

11. The enactment of section 1102(b)(3)(A) also raises a related information-sharing issue: whether a creditors' committee could be required to share information with any creditor that the committee represents where that information is subject to the attorney-client privilege or similar state, federal or other jurisdictional law privilege, whether such privilege is solely

[4] The Debtors and Committee have agreed on a form of Confidentiality Agreement. The Debtors have requested execution thereof in order to provide access to sensitive information to the Committee.

controlled by the committee or is a joint privilege with the debtor or some other party (collectively, "**Privileged Information**").

12. Unfortunately, nothing in the legislative history to section 1102(b)(3) provides guidance on these issues; instead, it merely reiterates the language of section 1102(b)(3). *See* H.R. Rep. No. 109-31, 109th Cong., 1st Sess. 87 (2005) ("Section 405(b) requires the committee to give creditors having claims of the kind represented by the committee access to information. In addition, the committee must solicit and receive comments for these creditors and, pursuant to court order, make additional reports and disclosures available to them.").

13. Given the ability to share information through the internet or other electronic means, the drafters of section 1102(b)(3) likely intended this provision to mean that a committee's constituency should have easier access to relevant public information about a debtor without the burden of retaining counsel to monitor the numerous pleadings within a bankruptcy case. Given the vague language of section 1102(b)(3), Congress could not have intended for a committee to be required to provide unfettered access to every type and kind of information that a committee receives from a debtor or information concerning every event in a chapter 11 case. If this were the intention, section 1102(b)(3) would then frustrate numerous provisions of the Bankruptcy Code, including the authority to obtain information and act in a fiduciary capacity pursuant to section 1103(c) of the Bankruptcy Code.

## V.
## SECTION 1103

14. Section 1103 of the Bankruptcy Code sets forth the rights and powers of a committee. 11 U.S.C. § 1103. Those rights and powers include "consult[ing] with the . . . debtor

in possession concerning the administration of the case" and "investigat[ing] the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan." 11 U.S.C. § 1103(c)(2).

## VI.
## GROUNDS FOR RELIEF REQUESTED AND PROPOSED PROCEDURES

15. The Debtors operate in a highly competitive industry and rely on confidential and proprietary information in conducting their businesses. As such, the dissemination of confidential information to parties who are not bound by any confidentiality agreement directly with the Debtors could have disastrous results for the Debtors. Also, if the Debtors' general creditors could require the Committee to give them access to confidential information in the possession of the Committee, then such information could easily become public and could be used by the Debtors' competitors and other parties to the direct detriment of the Debtors, their business operations, and their efforts in these Cases. These risks could strongly dissuade the Debtors from giving confidential information to the Committee. The inability of the Committee to gain access to confidential information, in turn, would limit the ability of the committee to fulfill its statutory obligations under the Bankruptcy Code.

16. As such, the Committee proposes that certain procedures be in place to clarify the requirement under section 1102(b)(3) for it to provide access to information and to solicit and receive comments. Nothing in these procedures or this Motion will limit the members of the Committee to discuss information, which is not confidential or privileged, on an informal basis

with creditor. These procedures will just provide a method to address voluminous, formal, and/or involved requests.

17. The procedures proposed by the Committee are as follows:

(a) Access To Creditor Information. In satisfaction of the Committee's obligations to provide access to information for creditors who hold claims of the kind represented by the Committee and to solicit and receive comments in accordance with section 1102(b)(3)(A) and (B) of the Bankruptcy Code, the Committee may, in its reasonable discretion, implement the following information sharing procedures (the "**Creditor Information Protocol**"), until the earliest to occur: dissolution of the Committee; dismissal of these chapter 11 Cases; conversion of these chapter 11 Cases; confirmation of a Chapter 11 plan; or upon further order of the Court:

(i) Establish and maintain a website for the purposes of disseminating information including in conjunction with any informational website established by the Debtors (the "**Creditor Website**"). The Creditor Website shall (i) contain general information about the Cases; (ii) provide directions on how to access additional case information such as through PACER, the Court's website, and any website established by or on behalf of the Debtors; (iii) afford an opportunity to submit an email to the Committee's counsel with specific questions regarding the status of the Cases and provide input to the Committee on the Cases; and (iv) other pertinent information posted at the direction of the Court, the Committee, or its counsel.

(ii) Establish and maintain a physical U.S. mail address for creditors to submit questions and comments to the Committee. Such address shall be Gardere Wynne Sewell LLP, 1601 Elm Street, Suite 3000, Dallas, TX 75201-4761, Attn: Michael S. Haynes.

(b) Privileged and Confidential Information. The Committee shall not be required or obligated to disseminate to any entity (all references to "entity" herein shall be as defined in Section 101(15) of the Bankruptcy Code, hereinafter "**Entity**"):

(i) without further order of the Court, confidential, proprietary, or other non-public information concerning the Debtors, including

(without limitation): (a) with respect to the acts, conduct, assets, liabilities, and financial condition of the Debtors, the operation of the Debtors' business, the desirability of the continuance of such business, other strategic financial transactions, or any other matter relevant to these Cases or to the formulation of one or more chapter 11 plans (including any and all confidential, proprietary, or other nonpublic materials of the Committee) whether provided (voluntarily or involuntarily) by or on behalf of the Debtors or by any third party or prepared by or for the Committee; and (b) any other information if the effect of such disclosure would constitute a breach or violation under any agreement or contract to which the Debtors are party, including any confidentiality agreement between the Committee and Debtors (collectively, the "**Confidential Information**");[5] or

(ii) any other information if the effect of such disclosure would constitute or potentially constitute a general or partial waiver of the attorney-client privilege, attorney work-product privilege, or other applicable privilege possessed by the Committee.

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[5] For the purposes of this Motion, the term "Confidential Information" shall mean the following, to the extent such information is expressly designated by the Debtors as Confidential Information (i) all well logs, structure maps, geological and geophysical interpretations provided by or on behalf of the Debtors to the Committee, (ii) reservoir engineering reports based upon actual production data ("Reserve Reports") that are provided by or on behalf of the Debtors to the Committee, (iii) joint interest billing invoices provided by or on behalf of the Debtors to the Committee, (iv) the identity of any potential purchasers or other parties interested in participating in a reorganization or purchase transaction with the Debtors, and (v) any other non-public information, including financial data, corporate documents, economic or transaction analysis and documents or information in any media pertaining to the Debtors or the Bankruptcy Case which (a) the Debtors are under no duty of public disclosure with respect to and (b) are provided by or on behalf of the Debtors to the Committee. For purposes of this Motion, the "Debtors" shall include the Debtors' officers, directors, employees, representatives, consultants, agents, attorneys, and professionals. Information that is available to the public shall not be labeled Confidential Information. Notwithstanding any provision of this Motion or any stamps or labels, the following categories of information and documentation shall not constitute Confidential Information: (i) any non-confidential financial information upon which (a) any budgets or projections for cash collateral purposes are based, (b) the required monthly operating reports, are based, or (c) any exhibit which the Debtors will offer at any hearing is based; (ii) any non-confidential oil and gas production and routine operations reports; (iii) information that the Debtors provided to members of the Committee before the date of execution of a confidentiality agreement (except the identity of any potential purchasers or other parties interested in participating in a reorganization or purchase transaction with the Debtors as disclosed to the members of the Committee or Committee Counsel); (iv) any information or documentation that is or becomes lawfully available to the public through no fault of the Committee; (v) any information or documentation that was or has become available on a non-confidential basis to the Committee from a source other than the Debtors; provided that the the Committee was not aware at the time that the source of such information was under a confidentiality obligation to the Debtors; and (vi) any information or documentation that was independently developed by the Committee without reference to or use of any Confidential Information.

(c) Confidentiality Agreements. The Committee may, without Court approval or consultation with any creditor, enter into confidentiality agreements with the Debtors or other parties in interest to obtain confidential, proprietary, or other non-public information.

(d) Information Subject to Discovery. Any information received (formally or informally) by the Committee from any Entity in connection with an examination pursuant to Bankruptcy Rule 2004 or in connection with any formal or informal discovery in any contested matter, adversary proceeding or other litigation in this chapter 11 case or related to the Debtors shall not be governed by the terms of the order approving this Motion; rather, such should be governed by any other order governing such discovery, adversary proceeding, contested matter, or other litigation.

(e) Identification. The Debtors shall assist the Committee in identifying any Confidential Information concerning the Debtor that is provided by the Debtors or their agents or professionals, or by any third party, to the Committee or its agents and professionals.

(f) Creditor Information Requests. If a creditor (the "**Requesting Creditor**") submits a written request (including via electronic or U.S. Mail) (the "**Information Request**") for the Committee to disclose or provide information, the Committee shall as soon as practicable, but no more than twenty (20) days after receipt of the Information Request, provide a response to the Information Request (the "**Response**"), including providing access to the information requested or the reasons the Information Request cannot be satisfied. If the Response is to deny the Information Request because the Committee believes that the Information Request implicates Confidential Information or Privileged Information that need not be disclosed pursuant to the terms of his Order or otherwise under 11 U.S.C. § 1102 (b)(3)(A), or that the Information Request is unduly burdensome, the Requesting Creditor may, after a good-faith effort to meet and confer with an authorized representative of the Committee regarding the Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion. Such motion shall be served on the Debtors, counsel for the Debtors, the Committee, counsel for the Committee, and all other required parties. The hearing on such motion shall be noticed and scheduled pursuant to the rules of the Court. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting (or the Committee objecting to such request) that the Committee provide the Requesting Creditor a log or other index of any information specifically responsive to the Requesting Creditor's request that the Committee deems to be Confidential Information or Privileged Information. Furthermore, nothing herein shall be deemed to preclude the Requesting Creditor from

requesting that the Court conduct an *in-camera* review of any information specifically responsive to the Requesting Creditor's request that the Committee claims is Confidential Information or subject to the attorney/client privilege, the attorney work product privilege, or other privilege.

(g) Committee Response. In its Response to an Information Request for access to Confidential Information, the Committee shall consider whether

(i) the Requesting Creditor is willing to agree in writing to reasonable confidentiality and trading restrictions with respect to such Confidential Information and represents that such restrictions and any information screening process complies with applicable securities laws, Bankruptcy Rules or contract; and

a. Claims Traders: If the Requesting Creditor is involved, directly or indirectly, in claims trading, the Requesting Creditor must file a document with the Court, and serve upon counsel for the Committee, the Debtors, counsel for the Debtors and the United States Trustee confirming that the Requesting Creditor has established an information-screening barrier (i.e., a "**Screening Wall**") that will be enforced and that no Confidential Information will be revealed to claims traders, trading desks, or any persons or entities involved in trading, and listing the name of the person that has been designated as monitor to ensure compliance with the provisions hereof; and

b. Market Competitors: If the Requesting Creditor is a competitor of the Debtors (or is a prospective competitor) and the information requested may impair the Debtors, no information will be disclosed unless the Court orders such disclosure after notice and a hearing and

(ii) under the particular facts, such agreement and any information screening process that it implements will reasonably protect the confidentiality of such information; provided, however, that if the Committee elects to provide access to Confidential Information on the basis of such confidentiality and trading restrictions, the Committee shall have no responsibility for the Requesting Creditor's compliance with, or liability for violation of, applicable

securities, contract, or other laws. Any disputes with respect to this paragraph shall be resolved as provided in the preceding paragraph, and, to the extent applicable, the next paragraph.

(h) Release of Confidential Information of Third Parties. In addition, if the Information Request implicates Confidential Information of the Debtors (or any other Entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee shall demand (the "**Demand**") for the benefit of the Debtors' creditors:

(i) if the Confidential Information is information of the Debtors or derived from Confidential Information of the Debtors, by submitting a written request, each captioned as a "**Committee Information Demand,**" to the Debtors' counsel, stating that such information will be disclosed in the manner described in the Demand unless the Debtors object to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor and the Debtors shall schedule a hearing with the Court pursuant to the rules of this Court seeking a ruling with respect to the Demand and the Committee shall not disclose such Confirmation Information pending such hearing; and

(ii) if the Confidential Information is information of another Entity, by submitting a written request to such Entity and its counsel of record, if any, with a copy to the Debtors' counsel, stating that such information will be disclosed in the manner described in the Demand unless such Entity or the Debtors object to such Demand on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such Entity and the Debtors shall schedule a hearing with the Court pursuant to the rules of this Court seeking a ruling with respect to the Demand.

(i) Exculpation. The Debtors and the Committee and any of their respective directors, officers, employees, members, attorneys, consultants, advisors and agents (acting in such capacity) (the "**Exculpated Parties**"), shall not have or incur any liability to any Entity (including, without limitation, the Debtors) for any act taken or omitted to be taken in connection with the preparation, dissemination, or implementation of the Creditor Information Protocol and information to be provided pursuant to section 1102(b)(3) of the Bankruptcy

Code; provided, however, that the foregoing shall not affect the liability of any Exculpated Party protected pursuant to this paragraph that otherwise would result from any such act or omission to the extent that such act or omission is determined in a final non-appealable order to have constituted gross negligence, fraud, or willful misconduct. Without limiting the foregoing, the exculpation provided in this paragraph shall be coextensive with any Exculpated Party's qualified immunity or similar protections under applicable law. This exculpation provision shall remain in full force and effect notwithstanding the dismissal or conversion of the Cases, confirmation of any chapter 11 plan or reorganization and the entry of any order closing the Cases. Notwithstanding the foregoing, nothing contained in this paragraph shall be deemed to modify the rights, obligations, or remedies under any confidentiality agreement among any of the Debtors, the Committee, and/or their counsel.

## VII.
## STATUTORY AUTHORITY FOR RELIEF REQUESTED

18. The Committee seeks entry of an order from this Court confirming that it is not authorized or required, pursuant to section 1102(b)(3)(A), to provide access to the Confidential Information or to Privileged Information to any creditor that it represents who is not a member of the Committee. Such relief not only will assist in preserving and maximizing the value of the estate but will also protect the Committee by allowing it to review Confidential Information and obtain privileged advice of counsel without risk of violating the Bankruptcy Code by refusing to provide such information to creditors generally. As noted above, nothing in section 1102(b)(3)(A) of the Bankruptcy Code itself, nor in the legislative history thereto, indicates that the Committee is required to provide Confidential Information or Privileged Information to all of the creditors it represents.

19. Section 107(b)(1), on the other hand, provides that "on request of a party in interest, the bankruptcy court ***shall*** . . . protect an entity with respect to a trade secret or

confidential research, development, or commercial information."[6] Section 107(b)(1), as highlighted above, is mandatory.[7] As a result, under section 107(b)(1) and Bankruptcy Rule 9018, this Court is empowered to protect the Confidential Information and Privileged Information from disclosure to general creditors. Additionally, section 105(a) provides that the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title."[8] The Committee asserts that entry of an order protecting the Confidential Information and Privileged Information is necessary and appropriate to protect the Debtors' estates and creditors thereof.

20. The relief requested herein does not interfere with the Committee's ability to provide information to its constituents pursuant to section 1102(b)(3)(A) of the Bankruptcy Code. If requested, the Committee could direct its constituents to all the relevant public information about this case, including, without limitation, pleadings filed with this Court, the Debtors' schedules and statements of financial affairs, the Debtors' monthly operating reports, and other summaries prepared by the committee based on non-confidential, non-privileged information.

21. By contrast, the disclosure of nonpublic or privileged information to such creditors would not foster a reorganization of the Debtors; instead, for the reasons stated above, it would cause serious harm to the estate.

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[6] 11 U.S.C. § 107(b)(1) (emphasis added).
[7] *Video Software Dealers Ass'n v. Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994) (providing that the protections of section 107(b)(1) are mandatory upon request).
[8] 11 U.S.C. § 105(a).

22. Pursuant to sections 105(a), 107(b)(1) and 1102(b)(3)(A), the Committee respectfully requests that the relief requested herein be granted to best preserve and maximize the value of their estates and to assist the Committee in fulfilling its statutory duties under the Bankruptcy Code.

## VIII.
## NOTICE

23. Notice of this motion has been provided to: (a) the U.S. Trustee; (b) counsel to the Debtors; (c) the 40 largest unsecured creditors of the Debtors on a consolidated basis; (d) those persons who have formally appeared and requested notice in this case pursuant to Bankruptcy Rule 2002; and (e) the Internal Revenue Service and other governmental agencies required to receive notice under the Bankruptcy Rules or Local Rules. The Committee submits that such notice is sufficient under the circumstances and that no other or further notice need be provided.

WHEREFORE the Committee respectfully request that the Court enter an order granting the relief requested herein and awarding the Committee such other and further relief as the Court may deem just and proper.

Dated: June 15, 2010

Respectfully submitted,

**GARDERE WYNNE SEWELL, LLP**

*/s/Michael S. Haynes*

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