

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

SEA CONTAINERS LTD., *et al.*,

Debtors.

Chapter 11

Case No. 06-11156 (KJC)

Jointly Administered

Hearing Date: 12/5/06 @ 11:30 a.m. (ET)

Objs. Due: 11/28/06 @ 4:00 p.m. (ET)

**APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
AND THE FINANCIAL MEMBERS SUB-COMMITTEE OF THE OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS OF SEA CONTAINERS LTD, ET AL.
UNDER 11 U.S.C. §§ 328(a), 330(a), 504 AND 1103(a) AND
FED. R. BANKR. P. 2014, FOR AN ORDER AUTHORIZING
AND APPROVING RETENTION AND EMPLOYMENT
NUNC PRO TUNC OF BINGHAM MCCUTCHEN LLP AS COUNSEL**

The Official Committee of Unsecured Creditors (the “**Official Committee**”) and the Financial Members Sub-committee of the Official Committee (the “**FIMEM Sub-committee**”) of the above-captioned debtors and debtors-in-possession (collectively, the “**Debtors**”) hereby submits this application (this “**Application**”) for an Order pursuant to sections 328(a), 330(a), 504 and 1103(a) of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “**Federal Bankruptcy Rules**”), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Bankruptcy Rules**”) and, together with the Federal Bankruptcy Rules, the “**Bankruptcy Rules**”) authorizing the employment and retention of Bingham McCutchen LLP (“**Bingham**”), nunc pro tunc as of October 26, 2006, as counsel for the FIMEM Sub-committee in the Debtors’ chapter 11 cases (the “**Bankruptcy Cases**”), as set forth herein. In support of this Application, the FIMEM

Sub-committee relies on the affidavit of Ronald J. Silverman attached hereto as Exhibit A (the “**Silverman Affidavit**”). In further support of this Application, the FIMEM Sub-committee respectfully represents as follows:

BACKGROUND

1. On October 15, 2006 (the “**Petition Date**”), the Debtors filed voluntary petitions for relief with this Court under chapter 11 of the Bankruptcy Code. The Bankruptcy Cases have been procedurally consolidated for administrative purposes.

2. One Debtor, Sea Containers Ltd., also filed a parallel “light-touch” petition in Bermuda, pursuant to which joint provisional liquidators were appointed for the purpose of monitoring the Bankruptcy Cases.

3. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Bankruptcy Cases.

4. On October 26, 2006, the United States Trustee for Region 3 (the “**U.S. Trustee**”), pursuant to section 1102(a) of the Bankruptcy Code, appointed the Official Committee to represent the interests of the Debtors’ unsecured creditors.¹

5. On October 26, 2006, the Official Committee held its initial meeting. At that meeting, the Official Committee discussed certain differing interests within the Official Committee, with the Sea Containers U.K. 1983 Pension Scheme and the Sea Containers U.K. 1990 Pension Scheme (together, the “**U.K. Pension Schemes**”) representing potentially

¹ The Official Committee members are: The Bank of New York, Dune Capital Management LP, HSH Nordbank AG, Mariner Investment Group, Inc., the Sea Containers 1983 Pension Scheme, the Sea Containers 1990 Pension Scheme and Trilogy Capital LLC.

differing interests than those represented by the other members of the Official Committee. Accordingly, as described more specifically below, the Official Committee decided to create two separate sub-committees to manage these potentially differing interests, with one sub-committee (the **FIMEM Sub-committee**) consisting of: The Bank of New York, Dune Capital Management LP, HSH Nordbank AG, Mariner Investment Group, Inc. and Trilogy Capital LLC (the “**FIMEM Creditors**”) and the other sub-committee (the “**U.K. Pensions Sub-committee**”) consisting of the U.K. Pension Schemes.

6. At the initial meeting of the Official Committee, the Official Committee decided to retain: (i) Morris, Nichols, Arsht & Tunnell LLP as Delaware counsel to the Official Committee; (ii) Bingham McCutchen LLP as counsel to the FIMEM Sub-committee; (iii) Houlihan Lokey Howard & Zukin as financial advisor to the FIMEM Sub-committee; and (iv) Kroll Talbot Hughes as financial advisor to the U.K. Pensions Sub-committee.

7. The U.S. Trustee filed the notice of the Appointment of Official Committee of Unsecured Creditors on October 27, 2006.

JURISDICTION AND VENUE

8. 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). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 328(a), 330(a) and 1103(a).

RELIEF REQUESTED

9. Pursuant to this Application, the FIMEM Sub-committee seeks authority to employ and retain Bingham as its counsel, nunc pro tunc as of October 26, 2006, to perform the legal services that will be necessary during the Bankruptcy Cases.

BASIS FOR RELIEF

10. Bingham is particularly well suited for the type of representation required by the FIMEM Sub-committee. Bingham has both a national and international practice, with more than 950 lawyers in twelve offices throughout the United States, as well as in London and Tokyo, and has experience in all aspects of the law that are likely to arise in the Bankruptcy Cases.

11. Bingham's Financial Restructuring Group is comprised of more than 100 attorneys practicing nationally and internationally. Bingham's attorneys have played significant roles in many of the largest and most complex cases under the Bankruptcy Code, including the chapter 11 cases of Mirant Corporation, Delta Air Lines, Inc., Asia Global Crossing, Refco Capital Markets, NII Holdings (f/k/a Nextel International), Exodus Communications, Comdisco, Owens Corning, Singer, Loewen Group International, NextWave, Zenith Electronics, Boston Chicken, Flooring America, Montgomery Ward, Hvide Marine, Bradlees, Flagstar (Advantica), Anchor Glass, Maxwell Communications, Joseph Nakash, Olympia & York, LTV Steel, Salant, Federated Department Stores, Rose's Stores, Macy's, Imagyn Medical Technologies, Allis Chalmers, Pan Am, Western Union, Southeast Bancorp, Eastern Airlines, United Financial, Texaco, Allied Holdings, and Heating Oil Partners, among many others.

12. Of particular relevance to the Bankruptcy Cases, Bingham's chapter 11 committee experience includes serving as counsel to the chapter 11 creditors' committees of Asia Global Crossing, Allied Holdings, Loewen Group International, Boston Chicken, Sharp International, LLS Corp., Derby Cycle, Union Acceptance, NRG Energy, Petroleum Geo-Services, and Complete Retreats, LLC, as well as counsel to ad hoc committees in the chapter 11 proceedings of Mirant Corporation, Pliant Corporation, Trico Marine Services, Teleglobe and Global TeleSystems.

13. The FIMEM Sub-committee seeks to retain Bingham as counsel because of the firm's extensive bankruptcy experience and knowledge as described herein.

14. Bingham also has specific experience with the Debtors. Prior to the commencement of the Bankruptcy Cases, and beginning approximately May 1, 2006, Bingham represented an ad hoc committee (the "**Ad Hoc Committee**") of 10 3/4% Senior Notes due 2006 (the "**2006 Notes**"), 7 7/8% Senior Notes due 2008 (the "**2008 Notes**"), 12 1/2% Senior Notes due 2009 (the "**2009 Notes**") and 10 1/2% Senior Notes due 2012 (the "**2012 Notes**") and, together with the 2006 Notes, the 2008 Notes and the 2009 Notes, the "**Notes**") issued by Sea Containers Ltd. In the course of that representation, Bingham reviewed and analyzed the Debtors, their financial situation, and their operations. As such, Bingham is already very familiar with the Debtors' financial and operational situations, material constituencies, and issues requiring resolution in order to reorganize.

SERVICES TO BE RENDERED

15. At the inaugural meeting of the Official Committee held on October 26, 2006, two members of the Official Committee -- the U.K. Pension Schemes -- asserted that they hold

very large claims and voiced a profound concern that the interests represented by them diverge from the interests represented by the other members of the Official Committee. The U.K. Pension Schemes suggested that in order to address the differing interests that may exist between them and other unsecured creditors on the Official Committee, the Official Committee should form two subcommittees -- the FIMEM Sub-committee and the U.K. Pensions Sub-committee. The purpose for the two subcommittees is to provide an efficient mechanism to permit the U.K. Pension Sub-committee on the one hand, and the FIMEM Sub-committee, on the other hand, to be able to attempt to resolve differing interests and, if necessary, to advocate and/or litigate such interests, utilizing distinct representation. The Official Committee determined that the use of the two sub-committees was an acceptable and efficient mechanism that likely would avoid certain disputes and provide a constructive basis to resolve other issues that may arise involving the U.K. Pension Schemes.

16. At the inaugural meeting of the Official Committee held on October 26, 2006, with all of its members present (either in person or by proxy), the Official Committee agreed that: (i) Morris Nichols Arsht and Tunnell (“**MNAT**”) will serve as the Official Committee’s Delaware counsel; (ii) Bingham McCutchen LLP (“**Bingham**” or “**Counsel**”) will represent the FIMEM Sub-committee, provided however, that if both the FIMEM Sub-committee and U.K. Pensions Sub-committee consent, on issues that are of common interest, in order to promote efficiency, Bingham may advocate on behalf of the entire Official Committee. Absent such issue specific consent, the FIMEM Sub-committee and the U.K. Pensions Sub-committee will each be entitled to pursue and advocate their respective interests, and Bingham will represent the interests of, and only have duties to, the FIMEM Subcommittee.

17. The Official Committee understands that the Debtors support the above described arrangement, in general, and in particular as relevant to this Application, the retention of Bingham as described herein.

18. It is anticipated that Bingham will render bankruptcy and restructuring legal services to the FIMEM Sub-committee, or to the entire Official Committee where agreed by both sub-committees, as needed throughout the course of the Bankruptcy Cases. The professional services to be rendered to the FIMEM Sub-committee, or the entire Official Committee where agreed by both sub-committees, may include, but shall not be limited to, the following:

- a. providing legal advice with respect to the FIMEM Sub-committee and/or the Official Committee's (as applicable) rights, powers, and duties in the Bankruptcy Cases
- b. the representation of the FIMEM Sub-committee and/or the Official Committee (as applicable) at all hearings and other proceedings;
- c. advising and assisting the FIMEM Sub-committee and/or the Official Committee's (as applicable) in discussions with the Debtors and other parties in interest, as well as professionals retained by any such parties, regarding the overall administration of the Bankruptcy Cases;
- d. assisting the FIMEM Sub-committee and/or the Official Committee (as applicable) in analyzing the claims of the Debtors' creditors and in negotiating with such creditors;
- e. assisting with the FIMEM Sub-committee's and/or the Official Committee's (as applicable) investigation of the assets, liabilities, and financial condition of the Debtors and of the operations of the Debtors' businesses;
- f. assisting the FIMEM Sub-committee and/or the Official Committee (as applicable) in its analysis of, and negotiations with, the Debtors or any third party concerning matters related to, among other things, formulating the terms of a plan or plans of reorganization for the Debtors;

- g. assisting and advising the FIMEM Sub-committee and/or the Official Committee (as applicable) with respect to their communications with the general creditor body regarding matters in the Bankruptcy Cases;
- h. reviewing and analyzing on behalf of the FIMEM Sub-committee and/or the Official Committee (as applicable) all pleadings, orders, statements of operations, schedules, and other legal documents;
- i. the preparation on behalf of the FIMEM Sub-committee and/or the Official Committee (as applicable) of all pleadings, orders, reports and other legal documents as may be necessary in furtherance of the FIMEM Sub-committee and/or the Official Committee's (as applicable) interests and objectives; and
- j. performing all other legal services for the FIMEM Sub-committee and/or the Official Committee (as applicable) that may be necessary and proper to facilitate the discharge by the FIMEM Sub-committee and/or the Official Committee (as applicable) of its duties in the Bankruptcy Cases and any related proceedings.

19. The utilization by the Official Committee of two subcommittees, with separate professionals having the roles as described herein, is a pragmatic and useful mechanism to permit the Official Committee to function in a traditional manner on many matters of common interest, while also providing for an effective and efficient way for the Official Committee to address potential disunities of interest among the creditor constituencies resident on the Official Committee. Courts are empowered to appoint multiple official committees under Bankruptcy Code Section 1102, and have done so repeatedly in appropriate circumstances. See e.g. *In re Mirant*, 03-46590 (DML) (Bankr. N.D. Tex), *In re Federal Mogul Global, Inc*, 01-10578 (JKF) (Bankr. D. Del.), *In re PG&E National Energy Group*, 03-30459 (SMT) (Bankr. D. Md.), *In re Refco Inc.*, 05-60006 (RDD) (Bankr. S.D.N.Y.), *In re Owens Corning*, 00-03837 (JKF) (Bankr. D. Del), and *In re Chateaugay Corp*, 86-11270 (BRL) (Bankr. S.D.N.Y). Official creditors committees are also authorized to employ, with court approval, "one or more" attorneys,

accountants, or other agents...." 11 U.S.C. Section 1103(a). Other courts have authorized official creditors committees to employ more than one set of professionals where differing constituencies on a creditors committee agree on such an arrangement. See In re JWP, Inc., 93-46404 (JHG), Bankr. S.D.N.Y. 1994, Order Granting Application To Employ as counsel the firm of Weil, Gotshal & Manges and the firm of Wachtell, Lipton, Rosen & Katz by JWP, Inc., nunc pro tunc to 2/14/04, Docket #132 (entered 4/13/94)(Official Committee retained both Wachtell, Lipton, Rosen & Katz (the prepetition bank group counsel) and Weil Gotshal & Manges (the prepetition noteholder counsel)). See also In re County of Orange, 179 B.R. 195 (Bankr. C.D. Cal. 1995) (recognizing subgroups among the unsecured creditor body, the US Trustee formed an Official Committee and a Vendors' Subcommittee, both of which retained separate counsel paid for by the estate). The appointment of Bingham, Houlihan and Kroll to perform services for the Official Committee, the FIMEM Subcommittee and the UK Pensions Sub-committee as set forth herein is useful, cost effective and appropriate. By utilizing a subcommittee structure to address potential intercreditor issues on the Official Committee, as opposed to utilizing two separate official creditors committees, redundancy of professionals is avoided. The present subcommittee arrangement does not entail duplicate levels of either Delaware or national counsel. Upon information and belief, the UK Pensions Subcommittee is not requesting separate statutory counsel (each of the UK Pension Schemes have private counsel); it will seek only a statutory subcommittee financial advisor. Thus, the present subcommittee arrangement will require only one statutory national counsel (Bingham) and one Delaware counsel (MNAT). Two financial advisors will be utilized to provide separate advice to each of the subcommittees as required. As described above, the Official Committee

determined that in the long run, such an arrangement was likely to reduce costs by providing for a smooth start to these Chapter 11 cases and an efficient and economical way for existing and potential intercreditor disputes to be addressed and resolved.

EMPLOYMENT AS OF THE COMMITTEE FORMATION DATE

20. Since the formation of the Official Committee on October 26, 2006, Bingham has acted to protect and advance the interests of all general unsecured creditors in the Bankruptcy Cases. Bingham reviewed and analyzed the Debtors' first-day motions and proposed orders. On October 26, 2006, Bingham was selected as counsel to the FIMEM Sub-committee on the basis described herein, and conducted the first Official Committee meeting immediately after the Official Committee formation. Bingham has since worked with the Official Committee's proposed Delaware Counsel, MNAT, The FIMEM Sub-committee's proposed financial advisor, Houlihan Lokey Howard & Zukin, and U.K. Pension Sub-committee proposed financial advisor, Kroll Talbot Hughes² to advance the interests of the Official Committee and to advise on pending matters. The sub-committee structure is already proving to be a very pragmatic solution, as Bingham has been able on behalf of the full Official Committee (with the consent of the U.K. Pensions Sub-committee): to prepare and negotiate a confidentiality agreement with the Debtors, advise and negotiate, and obtain beneficial modifications, on behalf of the Official Committee with respect to the Debtors' cash management motion, urgent non-core asset sales proposed by the Debtors and their non-debtor

² Contemporaneously herewith, or soon hereafter, the Official Committee will have filed an application to retain (i) Houlihan Lokey Howard & Zukin as the FIMEM Sub-committee's financial advisor; (2) Kroll Zolfo Cooper as the U.K. Pension Sub-committee's financial advisor; and (3) Morris Nichols Arsht and Tunnell as Delaware counsel to the Official Committee in connection with the Bankruptcy Cases.

subsidiaries, and certain retention applications for the Debtors' professionals. Bingham has also consulted with the Debtors and the Debtors' legal, financial and restructuring advisors on a variety of issues in connection with the Debtors' operations, finances, and administration of the Bankruptcy Cases. In this course, Bingham has arranged a full-day comprehensive meeting with the Debtors and the full Official Committee, which took place simultaneously at Bingham's New York and London offices via Bingham's proprietary video-link capabilities. At the same time, Bingham has been able to advise the FIMEM Sub-committee regarding U.K. Pension issues raised by members of the FIMEM Sub-committee.

21. The services of Bingham on and following the Petition Date have materially benefited unsecured creditors of the Debtors' estates, and have served to protect their rights until Bingham's formal retention pursuant to this Application. Accordingly, it is hereby requested that Bingham's retention be approved nunc pro tunc as of October 26, 2006, the date on which the Official Committee was formed, Bingham was selected as counsel, and Bingham began work.

BINGHAM COMPENSATION

22. Subject to Court approval, and in accordance with sections 328, 330 and 331 of the Bankruptcy Code, Bingham proposes to render its services on an hourly basis according to its customary hourly rates in effect when the services are rendered. The hourly rates charged by Bingham professionals differ based on, among other things, the individual professional's experience. These rates may change from time to time in accordance with Bingham's established billing practices and procedures and, generally, are adjusted in January of each year. Bingham will maintain detailed, contemporaneous records of time and any actual and

necessary expenses incurred in connection with the rendering of the legal services described above by category and nature of the services rendered. The fee ranges for the Bingham attorneys and paraprofessionals and their current, standard hourly rates in calendar year 2006, are as follows: (i) U.S.-based Partners & Of Counsel \$445 - \$850 per hour and U.K.-based Partners & Of Counsel £400 - £540 per hour; (ii) U.S.-based Counsel & Associates \$175 - \$535 per hour and U.K.-based Counsel & Associates £210 - £390 per hour; and (iii) U.S.-based Paraprofessionals \$100 - \$315 per hour and U.K.-based Paraprofessionals £110 - £130 per hour.

The current billing rates for the Bingham attorneys anticipated to be employed on these Bankruptcy Cases are as follows:

Barry G. Russell	Partner	£ 525 per hour
Ronald J. Silverman	Partner	\$ 675 per hour
Tom Bannister	Partner	£ 430 per hour
Abigail Milburn	Counsel	£ 255 per hour
Scott K. Seamon	Associate	\$ 395 per hour
Stacy A. Lopez	Associate	£ 210 per hour
Flora Ahn	Associate	\$ 255 per hour

23. Bingham intends to apply for compensation for professional services rendered and for reimbursement of actual and necessary expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, orders of the Court and the United States Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, dated January 30, 1996 (the "U.S. Trustee's Guidelines").

24. No agreement exists between Bingham and any other person for the sharing of compensation to be received by Bingham in connection with services rendered, or to be rendered, to the FIMEM Sub-committee or the Official Committee in the Bankruptcy Cases.

25. Bingham is not a creditor of the Debtors. Bingham received an advance payment retainer (the “**Retainer**”) in the amount of £75,000 on June 7, 2006 in respect of its representation of the Ad Hoc Committee. Prior to the commencement of the Bankruptcy Cases, Bingham applied the Retainer to anticipated fees and expenses incurred by Bingham on behalf of the Ad Hoc Committee for the period from the Petition Date through the date of appointment of the Official Committee. The actual fees and expenses incurred by Bingham since the Petition Date and up to the formation of the Official Committee on behalf of the Ad Hoc Committee equaled £69,699.60- fees, £1,536.35- expenses and £2,829.80 VAT, for a total of £74,065.75. Bingham proposes to apply the remaining amount of £934.25 to fees and expenses of the FIMEM Sub-committee. Since the formation of the Official Committee, Bingham has not represented the Ad Hoc Committee (and indeed, upon information and belief, it has disbanded) and has only represented and will only represent, the FIMEM Sub-committee and, to the extent described herein, the Official Committee, as applicable.

DISCLOSURE CONCERNING CONFLICTS OF INTEREST

26. To the best of the Official Committee’s knowledge, information and belief, other than as may be disclosed in this Application and the Silverman Affidavit, Bingham has no connection with the Debtors, their creditors, the U.S. Trustee or any other party in interest in the Bankruptcy Cases, or their respective attorneys or accountants.

27. To check and clear potential conflicts of interest in these Bankruptcy Cases, Bingham researched its client databases (which include the former client databases of Hebb & Gitlin, P.C., which merged with and into Bingham on July 15, 1999, Richards & O’Neil, LLP, which merged with and into Bingham on May 1, 2001, McCutchen, Doyle, Brown & Enersen, LLP, which merged with Bingham on July 1, 2002, Riordan & McKinzie which merged with and into Bingham on July 1, 2003, and Swidler Berlin Shereff Friedman, LLP, which merged with and into Bingham on February 28, 2006) to determine whether it had any current or former (since January 1, 2003) relationships with the following entities (collectively, the “**Interested Parties**”), all of which have been identified to Bingham on a list supplied by the Debtors³ (except where noted) and whose identities are set forth on Schedule 1 to the Silverman Affidavit:

- a. all Sea Containers Ltd. entities;
- b. GE SeaCo and affiliated entities;
- c. largest unsecured creditors
- d. prepetition lenders to the debtors;
- e. lenders to the non-debtor subsidiaries in which SCL has guaranteed the nondebtor subsidiaries’ obligations;
- f. parties to significant litigation with the debtors;
- g. major insurance carriers, reinsurance carriers, agents and brokers;
- h. counterparties to certain leases;

³ Except as otherwise noted, Bingham has conducted its conflict search exclusively on the basis of information supplied by the Debtors and has undertaken no independent research or investigation to uncover other potential interested parties.

- i. equity holders holding more than 5% of the outstanding Class A common stock of Sea Containers Ltd.;
- j. additional 18 largest Class A equity holders of Sea Containers Ltd.;
- k. holders of greater than 500 Class B shares of Sea Containers Ltd.;
- l. current and former directors and officers of the Debtors;
- m. other professionals retained by the Debtors;
- n. professionals retained by the ad hoc committee of the public noteholders and the pension schemes; and
- o. ordinary course professionals.

Bingham has also included the Members of the Official Committee as well as the U.S. Trustee and the trial attorney from the Office of the U.S. Trustee assigned to this case in this review process.

28. The identities of any Interested Parties that Bingham currently represents in matters unrelated to the Bankruptcy Cases, and a brief description of the work being performed by Bingham, are set forth on Schedule 2 to the Silverman Affidavit. The identities of any additional Interested Parties that Bingham formerly represented in closed matters (after January 1, 2003) unrelated to the Bankruptcy Cases, and a brief description of the work that was performed by Bingham, are set forth on Schedule 3 to the Silverman Affidavit.

29. Despite the efforts described above to identify and disclose Bingham's connections with parties in interest in these Bankruptcy Cases, because Bingham operates an international law firm having collectively over 950 lawyers in twelve offices worldwide, and the Debtors are an enterprise with hundreds of creditors, many affiliates, and other

relationships, Bingham is unable to state with certainty that every client representation or other connection has been disclosed.

30. Additionally, it is possible that certain Bingham attorneys or employees hold interests in mutual funds or other investment vehicles that may own debt or equity interests in, or have other connections to, the Debtors. If Bingham discovers additional information that requires disclosure in this regard, Bingham will file a supplemental disclosure with the Court as promptly as possible.

31. From time to time, Bingham has represented, and likely will continue to represent, certain creditors of the Debtors or various other parties which may be adverse to the Debtors in matters unrelated to the Bankruptcy Cases. For example, certain Interested Parties are existing clients of Bingham (e.g., General Electric Capital Corporation, Barclays Bank, Fortis Bank, and SPCP) in various general corporate, investing or lending transactions, regulatory proceedings before various governmental bodies and litigation matters unrelated to the Debtors or their affiliates. As described above, however, Bingham has undertaken a detailed search to determine, and to disclose, whether it currently represents or has represented in the past 3 years in matters that are now closed, any significant creditors, insiders or other parties in interest in such unrelated matters. See Schedule 2 and Schedule 3 to the Silverman Affidavit.

32. To the best of the Official Committee's knowledge, information and belief, Bingham is a "disinterested person" as that phrase is defined in section 101(14) of the Bankruptcy Code, and does not hold or represent any interest adverse to the Debtors' estates with respect to the matters for which Bingham is to be employed, as referenced by section

328(c) of the Bankruptcy Code. Bingham's employment is necessary and in the best interests of the Official Committee, the FIMEM Sub-committee and the Debtors' estates. The attorneys of Bingham that will be employed in these Bankruptcy Cases are members in good standing of the bars of the state and federal courts where they are admitted.

NOTICE

33. Notice of this Application has been provided to the U.S. Trustee, counsel to the Debtors, and all parties who have properly filed a notice of appearance in the Bankruptcy Cases. It is respectfully submitted that such dissemination constitutes adequate and proper notice of the Application.

NO PRIOR REQUEST

34. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, the Official Committee and the FIMEM Sub-committee respectfully request that the Court enter an order in substantially the form annexed hereto as Exhibit B:

- (a) authorizing and approving the FIMEM Sub-committee's retention of Bingham on the terms set forth herein, nunc pro tunc as of October 26, 2006; and
- (b) granting such other relief as the Court may deem just and proper.

[Balance of page intentionally left blank. Signature appears on following page.]

Dated at: Wilmington, Delaware

November 15, 2006

Respectfully Submitted,

THE FINANCIAL MEMBERS SUB-
COMMITTEE OF THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS
OF SEA CONTAINERS LTD, ET AL.

By: Its Chair

Dune Capital LLC

By: 

Name: Andrew B. Cohen

Title: Managing Director

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