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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590(DML)11
Debtors.)	Jointly Administered
)	Hearing Date and Time: To Be Set

**MOTION OF THE DEBTORS FOR ORDER CONFIRMING
ADMINISTRATIVE EXPENSE STATUS TO THE DEBTORS'
UNDISPUTED OBLIGATIONS ARISING FROM THE POSTPETITION
DELIVERY OF GOODS AND SERVICES ORDERED IN THE PREPETITION PERIOD**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), as debtors and debtors-in-possession, file this motion for entry of an order pursuant to 11 U.S.C. § 105(a) confirming administrative expense status of the Debtors' undisputed obligations arising from the postpetition delivery of goods and services ordered in the prepetition period and respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider the Motion creating this contested matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C.

§ 157(b)(2)(A), and (O). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The relief requested in the Motion is authorized under 11 U.S.C. § 105 and § 1107(a).

PROCEDURAL BACKGROUND

2. The Cases. On July 14, 2003 (the “Petition Date”), each of the Debtors filed a voluntary petition in this court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. Joint Administration Request is Pending. Concurrently with the filing of the Motion, the Debtors have moved the court to jointly administer the bankruptcy estates of the Debtors.

4. The Creditors’ Committee. No creditors’ committee has yet been appointed in these cases by the United States Trustee. Further, no trustee or examiner has been requested or appointed in any of the Debtors’ chapter 11 cases.

RELIEF REQUESTED

5. In the ordinary operation of the Debtors’ businesses, at any given time, the Debtors have numerous purchase orders outstanding (the “Outstanding Orders”) with various vendors and service providers (the “Vendors”) for goods and services necessary for the operation of their businesses. As a consequence of the commencement of these chapter 11 cases, the Vendors may be concerned that delivery of goods and services after the Petition Date pursuant to Outstanding Orders placed prior to the Petition Date will render the Vendors who make such shipments prepetition general unsecured creditors of the Debtors’ estates with respect to such shipments.

6. Accordingly, Vendors may refuse to ship or deliver goods and services to the Debtors unless the Debtors issue substitute purchase orders or obtain an order of the Court providing that all undisputed obligations of the Debtors arising from the postpetition delivery of goods and services pursuant to prepetition Outstanding Orders are afforded administrative expense priority.

7. To obtain delivery of the goods and services subject to the Outstanding Orders, the Debtors hereby seek, in the interest of caution, entry of an order confirming the Vendors administrative expense priority status under section 503(b) of the Bankruptcy Code for undisputed obligations arising from the Outstanding Orders that are delivered subsequent to the Petition Date.

BASIS FOR RELIEF

8. The relief requested herein will ensure a continuous supply of goods and services indispensable to the Debtors' operations. The Debtors further submit that, pursuant to section 503(b)(1)(A) of the Bankruptcy Code, all obligations that arise in connection with the postpetition delivery of goods and services, including goods and services ordered prepetition, are in fact administrative expense priority claims.

9. Additionally, under section 105(a) of the Bankruptcy Code, "the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Moreover, this relief requested is consistent with the "[i]mplicit . . . duties of a . . . debtor in possession . . . to protect and preserve the estate, including an operating business's going – concern value." See In re Coserv, L.L.C., 273 B.R. 487, 497 (Bankr. N.D.Tex. 2002).

10. Thus, the granting of the relief sought herein will not provide the Vendors with any greater priority than they would otherwise have if the relief herein is not granted. Absent such relief, however, the Debtors may be required to expend substantial time and effort reissuing Outstanding Orders to provide Vendors unfamiliar with the nuances of bankruptcy law with assurances that they will be compensated for goods and services delivered after the Petition Date. Accordingly, in the interest of caution and to avoid the detrimental impact that any disruption in goods or services would cause, the Debtors have filed this Motion.

11. Based upon the foregoing, the Debtors submit that the relief requested herein is essential, appropriate and in the best interests of the Debtors, their creditors and all parties in interest.

NOTICE

12. Notice of this Motion has been provided to the Office of the United States Trustee for the Northern District of Texas and the holders of the fifty (50) largest unsecured claims on a consolidated basis against the Debtors. The Debtors submit that under the circumstances no other or further notice is necessary.

13. No previous motion for the relief sought herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Debtors request entry of an order confirming the Vendors administrative expense priority status under section 503(b) of the Bankruptcy Code for the Debtors' undisputed obligations arising from the postpetition delivery of goods and services ordered in the prepetition period and granting such other and further relief as is just and proper.

Dated: Fort Worth, Texas
July 15, 2003

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

In re

MIRANT CORPORATION, et al.,

Debtors.

)
) Chapter 11 Case
)

) Case No. 03-46590(DML)11
) Jointly Administered
)
)

**ORDER CONFIRMING ADMINISTRATIVE EXPENSE STATUS OF THE
DEBTORS' UNDISPUTED OBLIGATIONS ARISING FROM THE POSTPETITION
DELIVERY OF GOODS AND SERVICES ORDERED IN THE PREPETITION PERIOD**

Upon the Motion, dated July 15, 2003 (the "Motion"), of Mirant Corporation and its affiliated debtors, (collectively, the "Debtors"), as debtors-in-possession, for an order confirming authorizing the Debtors to grant administrative expense status to their undisputed obligations to vendors (the "Vendors") arising from the postpetition delivery of goods and services ordered in the prepetition period (the "Outstanding Orders") and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and due notice of this Motion has been provided as set forth in the Motion; and good and sufficient cause appearing;

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Vendors shall be afforded an administrative expense priority, pursuant to section 503(b) of title 11 of the United States Code (the "Bankruptcy Code"), with respect to the undisputed obligations of the Debtors arising under the Outstanding Orders.
3. The Debtors are hereby authorized to pay all undisputed obligations arising from the postpetition delivery or shipment by the Vendors of goods and services subject to the Outstanding Orders, consistent with their customary practices in the ordinary course of its business.

End of Order

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she provided true and correct copies of the foregoing to Bankruptcy Services, LLC and directed them to effort service upon all persons on the attached Service List via facsimile or email transmission, where indicated, or via overnight courier, on the 15th day of July, 2003.

/s/ Judith Elkin

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