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**COUNSEL TO THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF MIRANT CORPORATION, ET AL.**

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

IN RE:	§ Chapter 11
	§
MIRANT CORPORATION, <i>et al.</i> ,	§ Case No. 03-46590-DML-11
	§
Debtors.	§ Jointly Administered

**APPLICATION FOR AN ORDER AUTHORIZING THE EMPLOYMENT
AND RETENTION OF CAPSTONE CORPORATE RECOVERY, LLC
PURSUANT TO SECTIONS 328 AND 1103 OF THE BANKRUPTCY CODE TO
PERFORM CERTAIN FINANCIAL ADVISORY SERVICES FOR THE
COMMITTEE OF UNSECURED CREDITORS OF MIRANT CORPORATION,
ET AL., EFFECTIVE AS OF APRIL 29, 2004**

The official committee of unsecured creditors of Mirant Corporation, *et al.* (the “Mirant Committee”) requests by this application (this “Application”) the entry of an order, substantially in the form submitted herewith, authorizing the Mirant Committee to retain and employ Capstone Corporate Recovery, LLC (“Capstone”), effective as of April 29, 2004, as financial advisor for the Mirant Committee in the above-captioned cases, pursuant to sections

328 and 1103(a) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and respectfully represents as follows:

Background

1. On July 14-15, 2003 and thereafter (the “Petition Date”), Mirant Corporation (“Mirant”) and certain of its affiliates (collectively, the “Debtors”) filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On April 7, 2004, the Court entered an order directing the United States Trustee for the Northern District of Texas (the “UST”) to appoint an examiner (the “Examiner”) in these cases, and accordingly, on April 13, 2004, the UST appointed William K. Snyder as Examiner.

3. Prior to the commencement of the Debtors’ chapter 11 cases, Citibank, N.A. (“Citibank”) (presently a member and chair of the Mirant Committee) and Credit Suisse First Boston, in their role as agents for Mirant’s prepetition lenders (together, the “Agents”), engaged in restructuring negotiations with the Debtors. In connection with such negotiations and their analysis of the Debtors’ businesses, the Agents retained Shearman & Sterling (n/k/a Shearman & Sterling LLP, hereafter “S&S”) as counsel, and S&S, in turn, engaged the financial advisory services of Capstone’s predecessor, FTI Consulting, Inc. (“FTI”), as well as the energy industry advisory services of PA Consulting Group, Inc. (“PA”).¹ The services rendered by PA and

¹ During January and February 2004, certain professionals employed by FTI – including the primary professionals involved with the Mirant assignment – left FTI to form or join Capstone.

FTI/Capstone in connection with such engagement, and which continued even past the Petition Date, are referred to herein as, the “Consulting Services.”

4. On March 19, 2004, the Agents filed a motion seeking authorization to share certain prepetition confidential information and analysis prepared by PA and FTI with the Mirant Committee (the “Prepetition Information Motion”). On March 29, 2004, the Debtors filed a motion entitled “Debtors’ Motion to Enforce Confidentiality Order and/or Clarify Its Terms” (the “Information Blocking Motion”) whereby the Debtors sought to prevent Citibank from sharing confidential committee information with Capstone and PA, who were continuing to serve as advisors to Citibank.

5. At the April 7, 2004 hearing on those two motions (the “April 7th Hearing”), the Court granted the Prepetition Information Motion and ruled that the Agents are authorized to share certain prepetition information developed by PA and FTI with the Mirant Committee. In addition, the Court approved the Information Blocking Motion in part and denied it in part. Specifically, the Court ruled that Citibank could not share confidential Committee information with professional advisors retained by Citibank as an individual member. The Court then indicated that it wanted to avoid a situation where there was an imbalance in the information available to the different committee members. The Court did, however, leave open the possibility that such information sharing would be permissible if Citibank agreed to share fully the work product of its advisors with the entire Mirant Committee. The Debtors’ noted, and the Court also left open, the option of the Mirant Committee seeking to retain the services of PA and Capstone in lieu of existing financial advisors.

6. Following the April 7th Hearing, PA and Capstone began to share prepetition information with the Mirant Committee. Based upon its review of those materials, the Mirant

Committee has determined that, notwithstanding the Debtors' assertions that they have been forthcoming with information, Capstone and PA appear actually to have had better transparency with respect to the Debtors' financial affairs than the financial advisors retained by the Mirant Committee during the postpetition period. By applications dated September 8, 2003 and September 11, 2003, respectively, the Mirant Committee requested authorization to retain Risk Capital Management Partners ("RCM") and Huron Consulting Group LLC ("Huron") to serve as advisors to the Mirant Committee. The Court approved the retention of RCM and Huron by orders docketed on September 29, 2003. Due to the extent of information and the knowledge base residing with PA and Capstone, the Mirant Committee desires the benefit of PA and Capstone's services as financial advisors and to transition to them work presently performed by RCM and Huron. Accordingly, the Mirant Committee is seeking by this Application to retain and employ Capstone as its financial advisor.² S&S, in consultation with the Agents, has agreed to release both PA and Capstone so that they may be retained by, and serve as consultants for, the Mirant Committee.

Jurisdiction and Venue

7. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of these cases and this Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested herein are sections 328 and 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014.

² Contemporaneously herewith, the Mirant Committee is filing an application to employ and retain PA as its energy industry advisor.

Proposed Retention

8. By this Application, the Mirant Committee seeks to employ and retain Capstone as its financial advisor during these chapter 11 cases, effective as of April 29, 2004.

9. The Mirant Committee requires the services of Capstone as financial advisor to assist in the evaluation of the Debtors' businesses during these chapter 11 cases. In that regard, the Mirant Committee seeks to retain Capstone as its financial advisor based upon Capstone's extensive expertise and knowledge in the field of restructuring consulting. In consultation with the Mirant Committee and its other advisors, Capstone may be requested by the Mirant Committee to perform professional services including, but not limited to, the following:

- Advising and assisting the Mirant Committee in its analysis and monitoring of the Debtors' historical, current and projected financial affairs, including without limitation, its business plan, schedules of assets and liabilities, statement of financial affairs, periodic operating reports, analyses of cash receipts and disbursements, analyses of cash flow forecasts, analyses of trust accounting, analyses of various asset and liability accounts, analyses of cost-reduction programs, analyses of any unusual or significant transactions between the Debtors and any other entities (including non-filing subsidiaries and affiliates), and analyses of proposed restructuring transactions.
- Reviewing the Debtors' expense structure and identifying opportunities for further reductions.
- Developing a monitoring report to enable the Mirant Committee to effectively evaluate the Debtors' performance on an ongoing basis.
- Advising and assisting the Mirant Committee in: (i) reviewing executory contracts, including leasing arrangements and providing recommendations to assume or reject; (ii) identifying and/or reviewing potential preferential payments, fraudulent conveyances and other causes of action; and (iii) reviewing the books and records of the Debtors for related party and/or potential avoidance actions.
- Performing liquidation analyses of the Debtors and advising the Mirant Committee and counsel in connection therewith.
- Assisting and advising the Mirant Committee in evaluating and analyzing restructuring plans proposed by the Debtors. Reviewing and providing analysis of any plan of reorganization and disclosure statement relating to the Debtors. Assisting and advising the Mirant Committee in implementing a plan of

reorganization of the Debtors. Ascertaining the reasonableness of Debtors' long-term viability and plan of reorganization.

- Analyzing alternative reorganization scenarios in an effort to maximize the recovery to the Mirant Committee and developing negotiation strategies to support the Mirant Committee's position. Assisting the Mirant Committee and its counsel in the negotiation of any and all aspects of a restructuring. Advising and assisting the Mirant Committee in reviewing any proposed sales or acquisitions of strategic or non-strategic assets or business units.
- Advising and assisting the Mirant Committee in its review of the Debtors' existing management processes, including, but not limited to, organizational structure, cash management and management information and reporting systems.
- Rendering expert testimony and litigation support services, as requested from time to time by the Mirant Committee and counsel, regarding the feasibility of a plan of reorganization and other matters.
- Attending Mirant Committee meetings and court hearings as may be required in the role as financial advisor to the Mirant Committee.
- Assisting and advising the Mirant Committee and counsel in reviewing and evaluating court motions filed or to be filed by the Debtors or any other parties-in-interest.
- Participating in meetings and discussions with the Mirant Committee, the Company, the other parties-in-interest and their respective professionals.
- Providing such other bankruptcy and related financial advisory services as are consistent with the Mirant Committee's role and duties.

10. Capstone has indicated its desire and willingness to act in these cases and to render the necessary professional services to the Mirant Committee in accordance with the terms set forth in this Application and as specifically requested by the Mirant Committee. In performing those tasks, Capstone will coordinate with the Mirant Committee's other retained professionals, in particular, PA and Miller Buckfire Lewis Ying & Co., LLC, to avoid any unnecessary duplication of services. The Mirant Committee will transition services presently performed by Huron to Capstone and there will be no or minimal duplication of services between Capstone and Huron.

11. To the best of the Mirant Committee’s knowledge, information and belief, except as set forth in the Declaration of Christopher J. Kearns (the “Kearns Declaration”) filed concurrently herewith, Capstone has no connection with, and holds no interest adverse to, the Debtors, their estates, their creditors, or any party in interest in these cases.

12. To the best of the Mirant Committee’s knowledge: (i) Capstone does not hold or represent any interest adverse to the Mirant Committee in the matters for which it is retained; (ii) Capstone is a “disinterested person” as that phrase is defined in section 101(14) of the Bankruptcy Code (as modified by section 1107(b) of the Bankruptcy Code); (iii) neither Capstone nor its professionals have any connection with the Debtors, the creditors or any other party in interest in these cases except as set forth in the Kearns Declaration; and (iv) Capstone’s employment is necessary and is in the best interests of the Mirant Committee and the Debtors’ estates.

13. Subject to the Court's approval, compensation will be payable to Capstone on an hourly basis, plus reimbursement of actual, necessary expenses incurred by Capstone.

Capstone’s current rates by staff level are as follows:

Position Title	Hourly Rate
Member	\$475 to \$495
Professional Staff	\$200 to \$450
Support Staff	\$125 to \$175

Capstone’s rates are subject to periodic adjustment. Such rate adjustments will be disclosed to this Court and the Debtors.

14. The Mirant Committee understands that Capstone intends to apply to the Court for allowance of compensation and reimbursement of expenses in accordance with applicable

provisions of the Bankruptcy Code, the Bankruptcy Rules, any applicable local rules, and the procedures established by order of this Court.

15. The Mirant Committee submits that the prompt retention of Capstone on the terms and conditions set forth herein and in the Kearns Declaration is necessary and in the best interests of the estates, and should be approved. Accordingly, the Mirant Committee submits that such employment should be granted and approved pursuant to sections 328(a) and 1103(a) of the Bankruptcy Code and Bankruptcy Rule 2014(a).

Notice

16. Notice of this Application has been given to counsel to the Debtors, the UST, each of the official committees that has been appointed in these cases, the Examiner and all other parties that have requested receipt of notices in these cases. In light of the nature of the relief requested herein, the Mirant Committee requests that such notice be deemed adequate and sufficient.

WHEREFORE, the Mirant Committee respectfully requests that the Court enter an order substantially in the form attached hereto (a) authorizing the Mirant Committee to retain Capstone, effective as of April 29, 2004, and (b) granting such further relief as is just and proper.

Submitted the 6th day of May, 2004.

ANDREWS KURTH LLP

By: /s/ Monica S. Blacker

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**COUNSEL TO THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS
OF MIRANT CORPORATION**

CERTIFICATE OF SERVICE

The undersigned certifies that she served the foregoing document on the Debtors' Master Service List on this 6th day of May 2004 via U.S. First Class Mail, postage paid.

/s/ Monica S. Blacker

Monica S. Blacker

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

IN RE:	§ Chapter 11
	§
MIRANT CORPORATION, <i>et al.</i> ,	§ Case No. 03-46590-DML-11
	§
Debtors.	§ Jointly Administered

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF
CAPSTONE CORPORATE RECOVERY, LLC PURSUANT TO SECTIONS
328 AND 1103 OF THE BANKRUPTCY CODE TO PERFORM
FINANCIAL ADVISORY SERVICES FOR THE COMMITTEE
OF UNSECURED CREDITORS OF MIRANT CORPORATION, ET AL.,
EFFECTIVE AS OF APRIL 29, 2004**

Upon the application (the “Application”)¹ of the official committee of unsecured creditors of Mirant Corporation, *et al.* (the “Mirant Committee”), pursuant to sections 328 and 1103 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for an order authorizing the employment and retention of Capstone Corporate Recovery, LLC (“Capstone”) to perform financial advisory services for the Mirant Committee, effective as of April 29, 2004; and the Court having jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Application being a core proceeding under 28 U.S.C. § 157(b)(2); and it appearing that notice of the Application was sufficient under the circumstances; and after due consideration of the Application and good cause appearing therefor, it is

¹ Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Application.

ORDERED that the Application be, and hereby is, granted, and the Mirant Committee is hereby authorized to employ and retain Capstone as its financial advisor on an interim basis; and it is further

ORDERED that parties in interest shall have twenty-six (26) days from the date of entry of this Order to file an objection to the permanent retention of Capstone. If no objections are filed and received on or before the twenty-seven (27) days after entry of this Order, this Order shall become a final order without any further action or order of the Court; and it is further

ORDERED that Capstone shall apply to this Court for compensation and reimbursement of expenses in accordance with the terms of the Bankruptcy Code, Bankruptcy Rules and Orders of this Court; and it is further

ORDERED that the retention of Capstone shall be effective as of April 29, 2004.

SIGNED this ____ day of _____, 2004

HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE