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**PROPOSED ATTORNEYS FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF
MIRANT AMERICAS GENERATION, LLC**

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

In re:	§	Chapter 11
	§	
MIRANT CORPORATION, <u>et al.</u>,	§	Case No. 03-46590 (DML) 11
	§	
Debtors.	§	Jointly Administered

**APPLICATION FOR APPROVAL OF THE EMPLOYMENT OF
COX & SMITH INCORPORATED AS ATTORNEYS FOR
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF
MIRANT AMERICAS GENERATION, LLC**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

The Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (the "MAGI Committee") files this *Application for Approval of the Employment of Cox & Smith Incorporated as Attorneys for the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC* (the "Application"). In support of the Application, the MAGI Committee relies upon the *Affidavit of Deborah D. Williamson* (the "Williamson Affidavit") submitted herewith. The MAGI Committee presents this Application and respectfully represents the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this Application 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 Application is authorized under 11 U.S.C. § 1103 and may be implemented in accordance with Rule 2014 of the Federal Rules of Bankruptcy Procedure.

PROCEDURAL BACKGROUND

2. On July 14, 2003 (the "Petition Date"), Mirant Corporation ("Mirant") and its affiliated debtors (collectively the "Debtors"), each filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (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. On July 25, 2003 (the "Committee Formation Date"), the MAGI Committee was appointed in these cases by the United States Trustee. The members of the MAGI Committee are California Public Employees Retirement System ("CalPERS"), Elliott Associates, L.P., JPMorgan Chase, Lehman Brothers Inc., Mackay Shields Financial, The Royal Bank of Scotland and Wells Fargo Bank, as Indenture Trustee.

RETENTION OF COX & SMITH INCORPORATED

4. On the Committee Formation Date, Cox & Smith Incorporated ("Cox & Smith") and Cadwalader, Wickersham & Taft, LLP ("Cadwalader") were chosen as counsel for the MAGI Committee. By this Application, the MAGI Committee seeks to employ and retain Cox & Smith as co-counsel in connection with various matters, including the Debtors' commencement and prosecution of their Chapter 11 cases as described herein, effective as of the Committee Formation Date. Pursuant to Section 1103(a) of the Bankruptcy Code, the MAGI Committee requests that the Court approve the employment of Cox & Smith as co-counsel to perform the extensive legal services that will be required during these Chapter 11 cases.

5. Cox & Smith will represent the MAGI Committee in these Chapter 11 cases along with Cadwalader. Cox & Smith and Cadwalader are in the process of discussing a division of responsibilities in connection with the representation of the MAGI Committee and will make every effort to avoid and/or minimize duplication of services to the MAGI Committee.

6. The MAGI Committee has selected Cox & Smith because of the firm's extensive experience in bankruptcy and reorganization matters. The MAGI Committee believes that Cox & Smith and its attorneys are fully qualified to work with Cadwalader to deal effectively and efficiently with many potential legal issues and problems that may arise in the context of the Debtors' Chapter 11 cases.

7. The employment of Cox & Smith is appropriate and necessary to enable the MAGI Committee to execute faithfully their duties. Subject to further order of this Court, it is proposed that Cox & Smith be employed to work as co-counsel with Cadwalader to:

- a. consult with the Debtors and their counsel concerning the administration of the case;
- b. investigate the acts, conduct, assets, liabilities and financial condition of the Debtors, the operation of the Debtors' business and the desirability to continue in such business, and any other matters relevant to the cases or to the formulation of a plan;
- c. participate in the formulation of a plan and advise those represented by the MAGI Committee of the MAGI Committee's determination as to any plan of reorganization;
- d. potentially request the appointment of a trustee or examiner under Section 1104 of the Bankruptcy Code, in the event that the MAGI Committee believes that the circumstances of the case require such action; and

e. perform all other legal services on behalf of the MAGI Committee in connection with these Chapter 11 cases.

8. It is necessary that the MAGI Committee employ counsel to render the foregoing professional services. Cox & Smith has stated its desire and willingness to act as co-counsel with Cadwalader in these Chapter 11 cases and render the necessary professional services as attorneys for the MAGI Committee.

9. In connection with preparing the Application, Cox & Smith performed a review of the connections and relationships between Cox & Smith and the Debtors' fifty largest unsecured creditors (on a consolidated basis), the Debtors' accountants, the Debtors' principals, officers, directors and major stockholders, the parties listed by Haynes & Boone, L.L.P. in its application for employment, as well as other parties in interest with respect to these Chapter 11 cases. In light of the extensive number of creditors and other parties in interest, Cox & Smith has been unable to conclusively identify all potential relationships. To the extent Cox & Smith becomes aware of additional relationships, Cox & Smith will provide additional disclosures to the Court.

COX & SMITH'S CONNECTIONS AND LACK OF CONFLICTS

10. As part of the internal due diligence regarding potential conflicts, Cox & Smith discovered that a single shareholder, Gardner Kendrick, currently holds 23 shares of stock in Mirant Corporation. Mr. Kendrick has made arrangements to donate these shares to Trinity Baptist Church of San Antonio. Once the transfer is complete, Mr. Kendrick will have no control over any disposition of such shares. In the interim, Cox & Smith has undertaken the appropriate measures to ensure that Mr. Kendrick is screened from receiving any confidential or non-public information until the transfer of the shares is complete. To the best of the MAGI Committee's knowledge, no other attorney with Cox & Smith has any other connection with or

any interest adverse to the Debtors, their creditors, or any other party in interest, or their respective attorneys and accountants, except as set forth in the *Williamson Affidavit* attached hereto.

11. Prior to appointment of the MAGI Committee, Cox & Smith did represent certain MAGI bondholders in connection with these bankruptcy cases. As a condition to acceptance of the employment as counsel to the MAGI Committee, Cox & Smith will not continue to represent the interests of any individual bondholder or creditor of any of the Debtors. Cox & Smith is a "disinterested person" as that term is defined in Section 101(14) of the Bankruptcy Code.

PROPOSED ARRANGEMENT FOR COMPENSATION

12. Subject to Court approval, and in accordance with Section 330(a) of the Bankruptcy Code, compensation will be payable to Cox & Smith on an hourly basis, plus reimbursement of actual, necessary expenses incurred by Cox & Smith. The primary attorneys and paralegal within Cox & Smith who represent the MAGI Committee and their current standard hourly rates are set forth below:

a.	Deborah D. Williamson, Shareholder	\$450 per hour
b.	Carol E. Jendrzey, Shareholder	\$275 per hour
c.	Thomas Rice, Associate	\$240 per hour
d.	Michelle Latham, Paralegal	\$ 90 per hour.

13. The hourly rates set forth above are subject to periodic adjustments. From time to time, other attorneys and paralegals from Cox & Smith may serve the MAGI Committee in connection with the matters for which Cox & Smith will be retained.

14. The hourly rates set forth above are Cox & Smith's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate Cox & Smith for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is Cox

& Smith's policy, in all areas of practice, to charge its clients for additional expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, postage and express mail charges, special or hand delivery charges, internal photocopying charges at \$.10 per page, external photocopying charges at the actual cost charged, travel expenses, expenses for "working meals," and computerized research. Cox & Smith does not charge for long distance calls other than conference calls. Cox & Smith does not charge for incoming or outgoing telecopier services. Cox & Smith will charge the MAGI Committee for expenses in a manner and at rates consistent with charges made generally to Cox & Smith's other clients and consistent with the applicable U.S. Trustee guidelines.

15. Cox & Smith's compliance with the requirements of Sections 330, 504, and 1103 of the Bankruptcy Code and Bankruptcy Rule 2014, as well as the Local Rules of this Court, is set forth in detail in the *Williamson Affidavit*.

WHEREFORE, the MAGI Committee respectfully requests that the Court enter an order approving the MAGI Committee's Application for Employment of Cox & Smith Incorporated as attorneys for the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC effective as of the Committee Formation Date, as set forth above and granting such other and further relief that may be just and proper.

DATED: August 21, 2003

Respectfully submitted,

Official Committee of Unsecured Creditors of
Mirant Americas Generation, LLC

By: /s/ Charles Greer
Charles Greer, Co-Chair

AND

Cox & Smith Incorporated
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San Antonio, Texas 78205
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By: /s/ Thomas Rice
Thomas Rice
Texas Bar No. 24025613
Deborah D. Williamson
Texas Bar No. 21617500

AND

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100 Maiden Lane
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Facsimile: (212) 504-6666

**PROPOSED ATTORNEYS FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS
OF MIRANT AMERICAS GENERATION, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 2003, a true and correct copy of the above and foregoing *Application* was served by electronic mail to the parties listed below and by United States First Class Mail on the parties on the Official Shortened Service List (8/20/03).

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/s/ Thomas Rice
Thomas Rice

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

In re:	§	Chapter 11
	§	
MIRANT CORPORATION, et al.,	§	Case No. 03-46590 (DML) 11
	§	
Debtors.	§	Jointly Administered

**INTERIM ORDER PURSUANT TO SECTION 1103(A) OF THE BANKRUPTCY
CODE AUTHORIZING THE EMPLOYMENT OF COX & SMITH
INCORPORATED AS ATTORNEYS FOR THE OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF MIRANT AMERICAS GENERATION, LLC**

Came on for consideration the *Application for Approval of the Employment of Cox & Smith Incorporated as Attorneys for the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC* (the "Application"). The Court finds that it has jurisdiction over this matter pursuant to 28 U.S.C. §§157 and 1334. The Court further finds that this is a core proceeding pursuant to 28 U.S.C. §157. After reviewing the Affidavit of Deborah Williamson, a Shareholder in the law firm of Cox & Smith Incorporated ("Cox & Smith"), in support of the Application (the "Williamson Affidavit"), the Court finds that: (i) the proposed employment of Cox & Smith as co-counsel for the Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (the "MAGI Committee") is in the best interest of the bankruptcy estates and the MAGI Committee, (ii) Cox & Smith and its shareholders and associates do not represent or hold any interest adverse to the Debtors' estates or the MAGI Committee such that Cox & Smith would be disqualified from representing the MAGI Committee in these Chapter 11 cases and (iii) Cox & Smith and each of its shareholders and associates is a "disinterested person" as such term is defined under 11 U.S.C. §101(14). The Court further finds that the Application should be granted. It is therefore

ORDERED that the retention of Cox & Smith as co-counsel for the MAGI Committee is hereby granted on an interim basis (the "Interim Order") pursuant to 11 U.S.C. §1103(a) for the purposes set forth in the Application and the Williamson Affidavit, effective as of July 25, 2003 (the "Committee Formation Date"). It is further

ORDERED that within three (3) business days of the entry of this Interim Order, Cox & Smith shall serve the Interim Order upon all parties entitled to receive notice of the Application. It is further

ORDERED that Cox & Smith shall be compensated in accordance with the procedures set forth in Sections 330 and 331 of the Bankruptcy Code and such Bankruptcy Rules as may then be applicable, from time to time, and such other procedures as may be fixed by order of this Court. It is further

ORDERED that the Interim Order shall be effective from July 25, 2003 through and including the date of final hearing on the Application. It is further

ORDERED that to the extent of any conflict between the terms and conditions of the Application and the Interim Order, the terms and conditions of this Interim Order shall govern. In is further

ORDERED that this Final Interim Order shall become a Final Order on the twenty-seventh (27th) day after entry of the Interim Order without further notice or hearing unless an objection to the Interim Order is timely filed with the Court and served on Cox & Smith on or before twenty-six (26) days after entry of the Interim Order.

Dated: _____

**HONORABLE D. MICHAEL LYNN,
UNITED STATES BANKRUPTCY JUDGE**

Respectfully submitted,

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