

Thomas E Lauria
Texas Bar No. 11998025
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
Telephone: 305-371-2700
Facsimile: 305-358-5744

Robin E. Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 214-651-5000
Telecopy: 214-651-5940

ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**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 |
| _____) | |

**MOTION OF DEBTORS TO REJECT UNEXPIRED LEASE OF NONRESIDENTIAL
REAL PROPERTY OF SILVER CARE, L.L.C.**

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”), as debtors in possession, file this Motion (the “Motion”) pursuant to section 365(a) of title 11, United States Code (11 U.S.C. §§ 101 et seq.) (the “Bankruptcy Code”) for authority to reject the unexpired lease of nonresidential real property (the “Lease”) of Silver Care, L.L.C., and in support thereof represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider 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.

PROCEDURAL BACKGROUND

2. The Cases. Commencing on July 14, 2003, and concluding in the early morning hours of July 15, 2003, (the “Petition Date”), certain of the Debtors (collectively, the “Initial Debtors”)

filed voluntary petitions 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”).¹ On August 18, 2003, Mirant EcoElectrica Investments I, Ltd. and Puerto Rico Power Investments, Ltd. (collectively, the “New Debtors”) commenced chapter 11 cases under the Bankruptcy Code. On October 3, 2003, the following additional Debtors filed voluntary petitions in this Court for relief under chapter 11: (i) Mirant Wrightsville Management, Inc.; (ii) Mirant Wrightsville Investments, Inc.; (iii) Wrightsville Power Facility, L.L.C.; and (iv) Wrightsville Development Funding, L.L.C. (collectively, the “Wrightsville Debtors”). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Cases are Jointly Administered. On July 15, 2003, this Court granted the motion for an order requesting that the bankruptcy estates of the Initial Debtors be jointly administered. On September 8, 2003, the Court entered the order approving joint administration of the cases of the New Debtors with those of the Initial Debtors. Also on September 8, 2003, the Court granted the motion for an order directing that orders entered in the cases of the Initial Debtors be made applicable to those of the New Debtors. On October 20, 2003, the Court entered an order approving the joint administration of the Wrightsville Debtors’ cases with those of the New Debtors and the Initial Debtors. On November 5, 2003, the Court entered an order directing that certain orders entered in the cases of the New Debtors and the Initial Debtors be made applicable to the Wrightsville Debtors.

4. The Committees. Three official committees have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases. Specifically, an official unsecured creditors’ committee and an official committee of equity security

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the “Canadian Debtors”) to commence plenary insolvency proceedings (the “Canadian Proceedings”) in the Court of Queen’s Bench of Alberta Judicial District of Calgary (the “Canadian Court”) pursuant to the *Companies’ Creditors Arrangement Act*. The Canadian Debtors are subject to the sole and exclusive jurisdiction of the Canadian Court.

holders have been appointed for Mirant Corporation and an official unsecured creditors' committee has been appointed for Mirant Americas Generation, LLC (collectively, the "Committees").

RELIEF REQUESTED

5. By this Motion, the Debtors respectfully request pursuant to 11 U.S.C. § 365(a) authority to reject certain Contracts listed below, effective 10 (ten) business days from the date of service of this Motion.

BASIS FOR RELIEF

6. On August 14, 2003, the Court entered an amended order (the "Order") approving procedures (the "Rejection Procedures") for the rejection of executory contracts (the "Contracts") and unexpired leases (the "Leases") from time to time in furtherance of the reorganization efforts of the Debtors.

7. In summary, the procedures Order allows the Debtors, in the exercise of their business judgment, to reject any Contract or Lease determined to be unnecessary and/or burdensome to the Debtors' ongoing business operations following ten (10) business days from service via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; (ii) counsel for the counterparty under the respective Contract or Lease who has appeared in these cases and has specifically requested notice of any rejection notice; and (iii) counsel for any statutory committees appointed in these cases.

8. Pursuant to the terms of the Order and N.D. TX L.B.R. 9014.1, unless a written objection hereto is filed and served in accordance with the terms of the Order, the following Leases and/or Contracts will be deemed rejected pursuant to 11 U.S.C. § 365(a) effective upon the expiration of the ten (10) business day notice period described above (the "Effective Date"):

Title of Lease/Contract:

Sub-Lease Agreement dated September 10, 2002 between Silver Care, L.L.C. (as sub-landlord) and Mirant Americas Marketing, L.P. (as sub-tenant) relating to the nonresidential property situated at 2260 Corporate Circle Suites 460 & 470, Henderson, Nevada

Effective Date of Rejection:

December 1, 2003

Parties to the Lease/Contract and Contact Information:

**Silver Care, L.L.C.
117 Emerald Dunes Circle
Henderson, NV 89052**

9. If an objection to this Motion is timely filed and served upon: White & Case, LLP, Wachovia Financial Center, 200 South Biscayne Blvd., Miami, Florida 33131, Attention: Thomas E Lauria, Esq. and Haynes and Boone, LLP, 901 Main Street, Suite 3100, Dallas, Texas 75202, Attention: Judith Elkin, Esq., counsel for the Debtors, not later than ten (10) business days from the date of service of this Motion, the Debtors shall seek a hearing on the objection at the Court's earliest convenience. If such an objection to a Rejection Motion is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of such determination by the Court unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.

10. Pursuant to the Order, claims arising out of the rejection of Contracts and Leases must be filed with the Court, or any Court approved claims processing agent, by the later of: (i) the deadline for filing proofs of claims established by this Court or (ii) thirty (30) days after the Effective Date, or the date of the Order of the Court upholding the Debtors' determination to reject the applicable Contract or Lease, unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease (the "Rejection Claims Deadline").

11. Pursuant to the Order, any holder of a claim allegedly arising from the rejection of a Contract or Lease who fails to timely file a proof of such claim on or before the expiration of the Rejection Claims Deadline shall be (a) forever barred from asserting such claim against any of the Debtors; (b) forever barred from sharing in any distribution of the Debtors' estates or assets under any confirmed plan of reorganization or order of the Court authorizing distributions from the Debtors' estates;

and (c) bound by the terms of any plan of reorganization confirmed in these chapter 11 cases and any order of the Court authorizing distributions from the Debtors' estates.

CONCLUSION

WHEREFORE, the Debtors respectfully request the relief requested herein and such other and further relief as this Court deems just and proper.

Dated: November 10, 2003

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By /s/ Meredyth A. Purdy
Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Meredyth A. Purdy
State Bar No. 24007882

-and-

Thomas E Lauria
State Bar No. 11998025
Michelle C. Campbell
State Bar No. 24001828
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
(305) 371-2700

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DEBTORS-IN-POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she caused to be served a true and correct copy of the foregoing Motion upon all parties on Limited Service List by First Class United States mail and on the parties listed below by electronic mail, facsimile, or overnight delivery, on the 10th day of November, 2003 in accordance with the Federal Rules of Bankruptcy Procedure and in accordance with the Rejection Procedures as approved by this Court.

/s/ Meredyth A. Purdy

Silver Care, LLC
117 Emerald Dunes Circle
Henderson, NV 89052

Official Committee of Unsecured Creditors of Mirant Corporation
Paul N. Silverstein
Jason Brookner
Andrews & Kurth L.L.P.
1717 Main Street, Suite 3700
Dallas, TX 75201-4400
Fax: (214) 659-4829

Official Committee of Unsecured Creditors of Mirant Corporation
Mark J. Thompson
Simpson Thatcher & Bartlett LLP
425 Lexington Ave.
New York, NY 10017
Fax: (212) 455-2502

Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC
Deborah D. Williamson
Cox & Smith Incorporated
112 E. Pecan St., Suite 1800
San Antonio, TX 78205
Fax: (210) 226-8395

Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC
Bruce R. Zirinsky
Cadwalader, Wickersham & Taft LLP
100 Maiden Lane
New York, NY 10038
Fax: (212) 504-6666

Counsel for Mirant Corporation Equity Committee
Edward S. Weisfelner
Brown, Rudnick, Berlack Israels LLP
120 West 45th Street
New York, NY 10036
Fax: (212) 704-0196

Counsel for Mirant Corporation Equity Committee
Eric Taube
Hohmann, Taube & Summers LLP
100 Congress Avenue
Suite 1600
Austin, TX 78701-4042
Fax: (512) 472-5248