

U.S. BANKRUPTCY COURT
 NORTHERN DISTRICT OF TEXAS
ENTERED
 WANA L. MARSHALL, CLERK
 THE DATE OF ENTRY IS
 ON THE COURT'S DOCKET

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. 03-46591(DML)
Debtors.)	Jointly Administered
)	
)	

**STIPULATED ORDER REGARDING MOTION OF DEBTORS TO REJECT
 EXECUTORY CONTRACTS WITH (1) SCARLETT RESOURCE MERCHANTS LLC
 AND (2) HVB RISK MANAGEMENT PRODUCTS, INC.**

Upon the motion, dated October 2, 2003 (the "Motion"),¹ of Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), as debtors in possession, requesting authority to reject the Contracts; and having reviewed the response to the Motion filed by Bayerische Hypo-und Vereinsbank AG ("HVB") by and on behalf of Scarlett Resources Merchants LLC and HVB Risk Management Products; and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion has been provided, and that no other or further notice need be provided; upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED that to the extent the Contracts were capable of being rejected under Bankruptcy Code section 365 and were not properly terminated by HVB prior to such date, such Contracts are rejected as of October 17, 2003; it is further

ORDERED, that notwithstanding the foregoing, it is acknowledged that the

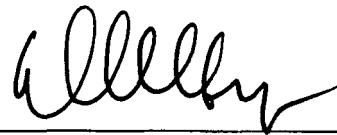
¹ Unless otherwise defined herein, capitalized terms have the same meaning ascribed to them in the Motion.

Ally and ~~attorney~~ representative of the Debtors' estates

Debtors have reserved the right to: (a) characterize the Contracts (either individually or collapsed into one transaction) as a financing and not executory contracts, (b) seek a determination from this Court that the Contracts are not swap contracts under Bankruptcy Code section 560, (c) argue that claims arising under the Contracts may or may not be netted or offset against one another, (d) determine any claims or damages arising out of the termination or rejection of the Contracts and the dates as of which such claims or damages are determined, and (e) seek a determination from this Court that the Contracts are not "safe harbor" contracts under Bankruptcy Code section 560 and that HVB's purported termination of the Contracts violated the automatic stay of section 362(a). In addition, it is acknowledged that the Debtors have reserved all defenses, counterclaims and rights of setoff or recoupment that Debtors may have with respect to any claims that Scarlett or HVB may assert arising out of the rejection of the Contracts; it is further

ORDERED, that it is acknowledged that HVB has reserved the right to argue that (a) the Contracts were both properly terminated as of August 25, 2003, and (b) both Contracts are swap agreements, and as such, the termination thereof and setoff of amount due under such Contracts against each other was proper under Bankruptcy Code section 560. In addition, it is acknowledged that HVB has reserved all claims, defenses, counterclaims and rights of setoff or recoupment that HVB may have against the Debtors arising out of or relating to the rejection or termination of the Contracts.

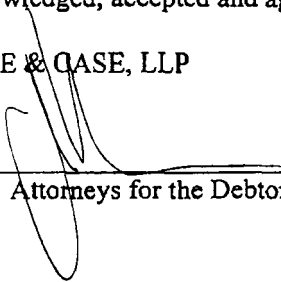
Dated: *July* June 7, 2004



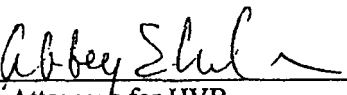
D. Michael Lynn
United States Bankruptcy Judge

Acknowledged, accepted and agreed:

WHITE & CASE, LLP

By: 
Attorneys for the Debtors

O'MELVENY & MYERS, LLP

By: 
Attorneys for HVB