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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹	)	Chapter 11
)	
Debtors.)	
)	

**MOTION OF THE DEBTORS FOR AN ORDER AUTHORIZING
THE RETENTION AND COMPENSATION OF CERTAIN
PROFESSIONALS UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

The above-captioned debtors (collectively, the “Debtors”) hereby move the Court, pursuant to this Motion (the “Motion”), for the entry of an order, substantially in the form of Exhibit A, authorizing the Debtors to retain and compensate certain professionals utilized in the

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.



ordinary course of the Debtors' business. In support of this Motion, the Debtors respectfully state as follows:²

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105(a), 327, 328 and 330 of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").

Background

4. On the date hereof (the "Commencement Date"), each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated. Concurrently with the filing of this Motion, the Debtors have sought procedural consolidation and joint administration of these chapter 11 cases.

5. The Debtors are the second largest North American home entertainment specialty retailer. They currently operate approximately 4,200 retail stores located throughout all 50 states. They rent and sell DVDs, videocassettes and video games through three distinct brands — Movie Gallery, Hollywood Video and Game Crazy.

² The facts and circumstances supporting this Motion are set forth in the Affidavit of William C. Kosturos, Chief Restructuring Officer of Movie Gallery, Inc., in Support of First Day Motions (the "First Day Affidavit"), filed contemporaneously herewith.

6. In 2006, the aggregate annual revenues of the Debtors and their non-Debtor affiliates, including rental revenue and product sales, exceeded \$2.5 billion. Of this amount, approximately 56% was attributed to DVD rentals, 15% to the sale of previously-rented DVDs, VHS cassettes and video games, 13% to the sale of new and used gaming products, 7% to game rentals, 4% to the sale of concessions and other miscellaneous products, 3% to the sale of movie-related products and merchandise and 2% to VHS cassette rentals. As of September 2, 2007, the Debtors and their non-Debtor affiliates employed approximately 38,800 employees, including approximately 7,500 full-time employees and 31,300 part-time employees.

7. Several factors have led to the filing of these chapter 11 cases. First, the video rental industry is highly competitive. The Debtors face direct competition from competitors such as Blockbuster and Netflix and indirect competition from pay-per-view, cable television and big-box retailers who sell DVDs at increasingly lower prices. Furthermore, recent box office receipts of rental releases have declined over the previous year, contributing to an industry-wide decline in demand for video rentals. Finally, as the Debtors' financial performance has deteriorated, they have experienced contracting trade terms, which have had a negative impact on the Debtors' liquidity, which, in turn, has contributed to the Debtors' inability to comply with certain financial covenants under their credit agreements.

8. The Debtors retain various attorneys, accountants and other professionals in the ordinary course of their business (each, an "OCP"). The OCPs provide services for the Debtors in a variety of matters unrelated to these chapter 11 cases, including legal services with regard to

specialized areas of the law, accounting services, auditing and tax services and certain consulting services. A list of the Debtors' current OCPs is attached hereto as Exhibit B.³

Relief Requested

9. The Debtors seek authorization to continue, in their sole discretion, to retain and compensate the OCPs on a postpetition basis in accordance with the procedures for retention and compensation of OCPs, as reflected on Exhibit 1 annexed to Exhibit A attached hereto, without the need for each OCP to file formal applications for retention and compensation pursuant to sections 327, 328, 330 and 331 of the Bankruptcy Code (collectively, the "OCP Procedures"). Additionally, the Debtors seek to reserve the right to retain additional OCPs from time to time during these cases by (a) including such OCPs on an amended version of Exhibit B attached hereto that is filed with the Court and served on the Notice Parties (as defined below) and (b) having such OCPs comply with the OCP Procedures.⁴

Basis for Relief

10. The Debtors respectfully submit that the continued retention and compensation of the OCPs is in the best interests of their estates, creditors and other parties in interest. While some OCPs may wish to continue to represent the Debtors on an ongoing basis, others may be

³ For purposes of this Motion, trial experts are excluded from the definition of OCPs. Courts have recognized that retention of trial experts as professionals is not required and would subject a debtor's litigation strategy to unwarranted disclosure and scrutiny. *See, e.g., In re Napoleon*, 233 B.R. 910, 913 (Bankr. D. N.J. 1999) (holding that environmental, legal malpractice and financial experts hired to assist in the prosecution of a state court malpractice action did not play "integral role[s] in the administration of the bankruptcy case" and were therefore not considered "'professional person[s]' within the meaning of § 327(a)"); *In re That's Entm't Mktg. Group*, 168 B.R. 226, 230-31 (N.D. Cal. 1994) (holding that an "accountant who is retained solely to testify as an expert witness in collateral litigation does not assume a 'central role in the administration of the bankruptcy'" and, therefore, is "not subject to the requirements of § 327 and Rule 2014"); *In re Babcock Dairy Co. of Ohio, Inc.*, 70 B.R. 691, 692 (Bankr. N.D. Ohio 1987) (holding that an expert witness retained by a chapter 7 trustee was not a "professional person" as such term is used in section 327 of the Bankruptcy Code because the expert's services were not central to the administration of the estate).

⁴ Except as authorized by the Court, the OCP Procedures shall not apply to professionals retained by the Debtors pursuant to separate orders of the Court.

unwilling to do so if the Debtors cannot pay them on a regular basis. Without the background knowledge, expertise and familiarity that the OCPs have relative to the Debtors and their operations, the Debtors undoubtedly would incur additional and unnecessary expenses in educating replacement professionals about the Debtors' business and financial operations. Moreover, the Debtors' estates and their creditors are best served by avoiding any disruption in the professional services that are required for the day-to-day operation of the Debtors' business. Additionally, in light of the substantial number of OCPs and the significant costs associated with the preparation of retention applications for professionals who will receive relatively modest fees, the Debtors submit that it would be impractical, inefficient and extremely costly for the Debtors and their legal advisors to prepare and submit individual applications and proposed retention orders for each OCP.

11. Furthermore, the Debtors propose to retain an OCP and pay such OCP, without formal application of the Court by any OCP, 100% of fees and disbursements to each of the OCPs retained by the Debtors after such OCP (a) files with the Court and serves upon the parties in interest a declaration of disinterestedness in accordance with OCP Procedures and (b) submits to the Debtors an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Commencement Date; provided that each OCP's fees, excluding costs and disbursements, do not exceed \$75,000 per month on average over a rolling three-month period while these chapter 11 cases are pending (the "OCP Cap").

12. If an OCP exceeds the OCP Cap for any given month, on or before the 30th day of the month following the month for which compensation is sought, the OCP shall submit a monthly statement (each, a "Monthly Statement") to the parties in interest. The Monthly

Statement shall include reasonably detailed invoices indicating the nature of the services rendered with fees and expenses calculated in accordance with such OCP's standard billing practices. Parties in interest will have 20 days after service of the Monthly Statement to object to the fees requested therein. The Debtors submit that this process is necessary to avoid any disruption in the professional services that are required for the day-to-day operation of the Debtors' business while ensuring that the fees and expenses for the OCPs are effectively monitored.

13. In determining whether an entity is a "professional" within the meaning of section 327 of the Bankruptcy Code and, therefore, must be retained by express approval of the court, courts consider the following:

- a. whether the entity controls, manages, administers, invests, purchases or sells assets that are significant to the debtor's reorganization;
- b. whether the entity is involved in negotiating the terms of a plan of reorganization;
- c. whether the entity is directly related to the type of work carried out by the debtor or to the routine maintenance of the debtor's business operations;
- d. whether the entity is given discretion or autonomy to exercise his or her own professional judgment in some part of the administration of the debtor's estate;
- e. the extent of the entity's involvement in the administration of the debtor's estate; and
- f. whether the entity's services involve some degree of special knowledge or skill, such that it can be considered a "professional" within the ordinary meaning of the term.

See, e.g., In re First Merchs. Acceptance Corp., 1997 WL 873551, at *3 (D. Del. Dec. 15, 1997); In re Sieling Assocs. Ltd. P'ship, 128 B.R. 721, 723 (Bankr. E.D. Va. 1991) (authorizing the debtor to retain an environmental consultant in the ordinary course of business); In re Riker

Indus., Inc., 122 B.R. 964, 973 (Bankr. N.D. Ohio 1990) (not requiring section 327 approval of the fees of a management and consulting firm that performed only “routine administrative functions” and whose “services were not central to [the] bankruptcy case”); In re Fretheim, 102 B.R. 298, 299 (Bankr. D. Conn. 1989) (only those professionals involved in the actual reorganization effort, rather than debtor’s ongoing business, require approval under section 327); In re Johns-Manville Corp., 60 B.R. 612, 619 (Bankr. S.D.N.Y. 1986) (only those professionals involved in the actual reorganization effort, rather than debtor’s ongoing business, require approval under section 327); see also That’s Entm’t, 168 B.R. at 230 (N.D. Cal. 1994) (only the retention of professionals whose duties are central to the administration of the estate require prior court approval under section 327).

14. The foregoing factors must be considered in the totality (*i.e.*, none of the factors alone is dispositive). Considering all of the factors, the Debtors do not believe that the OCPs are “professionals” within the meaning of section 327. Specifically, the OCPs will not be involved in the administration of these chapter 11 cases but, instead, will provide services in connection with the Debtors’ ongoing business operations, which services are ordinarily provided by non-bankruptcy professionals. Nevertheless, out of an abundance of caution, the Debtors seek the relief requested herein to establish clear mechanisms for retention and payment of the OCPs and thereby avoid any subsequent controversy with respect thereto.

15. Courts have routinely granted the same or similar relief to chapter 11 debtors in other large chapter 11 cases. See, e.g., In re US Airways, Inc., Case No. 04-13819 (SSM) (Bankr. E.D. Va. Sept. 15, 2004); In re NTELOS, Inc., Case No. 03-32094 (DOT) (Bankr. E.D. Va. Mar. 4, 2003); In re Fas Mart Convenience Stores, Inc., Case No. 01-60386 (DOT) (Bankr.

E.D. Va. Mar. 9, 2001); see also In re Dura Auto. Sys., Inc., No. 06-11202 (Bankr. D. Del. Nov. 20, 2006); In re J.L. French Auto. Castings, Inc., Case No. 06-10119 (Bankr. D. Del. Mar. 3, 2006); In re Tower Auto., Inc., Case No. 05-10578 (Bankr. S.D.N.Y. Mar. 16, 2005).

16. The Debtors represent that (a) the retention of the OCPs is necessary for the day-to-day operations of the Debtors' business, (b) expenses for the OCPs will be monitored and (c) the OCPs will not perform substantial bankruptcy-related services without filing an application with this Court for separate retention as a non-ordinary course professional.

17. Although some of the OCPs may hold minor amounts of unsecured claims against the Debtors in connection with services rendered to the Debtors prepetition, the Debtors do not believe that any of the OCPs have an interest materially adverse to the Debtors, their creditors or other parties in interest. In any event, the OCP Procedures include a requirement that OCPs file declarations of disinterestedness before an OCP can be compensated. By this Motion, the Debtors are not requesting authority to pay prepetition amounts owed to OCPs.

18. The Debtors and their estates would be well served by continued retention of the OCPs because of their established relationships with the Debtors and understanding of the Debtors and their operations. Additionally, in light of the substantial number of OCPs and the significant costs associated with the preparation of retention applications for professionals who will receive relatively modest fees, the Debtors submit that it would be impractical, inefficient and extremely costly for the Debtors and their legal advisors to prepare and submit individual applications and proposed retention orders for each OCP. Therefore, the Debtors submit it is in the best interest of all creditors and parties in interest to avoid any disruption in the professional

services that are required for the day-to-day operation of the Debtors' business and retain the OCPs in accordance with the OCP Procedures.

Waiver of Memorandum of Points and Authorities

19. The Debtors respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as described in Rule 9013-1(G) of the Local Bankruptcy Rules for the Eastern District of Virginia.

Notice

20. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition first lien facilities; (e) counsel to the agent for the Debtors' prepetition second lien facility; (f) the trustee for the Debtors' 11% senior unsecured notes; (g) counsel to Sopris Capital Advisors LLC; (h) the trustee for the Debtors' 9.625% senior subordinated unsecured notes; (i) counsel for certain movie studios; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; and (l) the banks that process disbursements in the Debtors' cash management system (Bank of America, Canadian Imperial Bank of Commerce and Wachovia Bank). No later than two business days after entry of the order granting the relief requested in this Motion, the Debtors shall serve this Motion on the Debtors' known potential secured creditors who have filed financing statements or their known agents or trustees, if applicable; the Debtors' respectfully suggest that such service shall

satisfy any requirements set forth in Local Bankruptcy Rule 2014-1. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, for the reasons set forth herein and in the First Day Affidavit, the Debtors respectfully request that the Court enter an order, substantially in the form attached hereto as Exhibit A, (a) authorizing the Debtors to retain and compensate OCPs in accordance with the OCP Procedures and (b) granting such other and further relief as is just and proper.

Richmond, Virginia

Dated: October 16, 2007

/s/ Peter J. Barrett

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EXHIBIT A

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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹	)	Chapter 11
)	
Debtors.)	
)	

**ORDER AUTHORIZING THE DEBTORS' RETENTION AND COMPENSATION OF
CERTAIN PROFESSIONALS UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

Upon the motion (the "Motion")² of the above-captioned debtors (collectively, the "Debtors") for the entry of an order (the "Order") authorizing the Debtors to retain and compensate certain professionals utilized in the ordinary course of the Debtors' business and the First Day Affidavit; it appearing that the relief requested is in the best interests of the Debtors' estates, their creditors and other parties in interest; the Court having jurisdiction to consider the

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); venue being proper before this court pursuant to 28 U.S.C. §§ 1408 and 1409; notice of the Motion having been adequate and appropriate under the circumstances; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED

1. The Motion is granted in its entirety.
2. The Debtors are authorized, but not required, to retain and pay reasonable fees and expenses for the services of various attorneys, accountants and other professionals in the ordinary course of their business (each, an “OCP”).
3. The procedures for the retention and compensation of OCPs set forth on Exhibit 1 attached hereto are hereby approved.
4. The entry of this Order is conditional on the terms set forth herein. Any party in interest may object to the entry of this Order within ten (10) days after the date of entry of this Order (an “Objection”). If an Objection is timely filed and not withdrawn before such hearing, the Objection shall be heard at the next regularly-scheduled omnibus hearing date. At the hearing, the Court may vacate this Order, modify it or make it final. If no timely Objection is filed (or is filed and subsequently withdrawn), this Order shall become final at the conclusion of such objection period without further order of the Court. This Order shall remain in effect until further order of the Court. The modification or vacation of this Order shall not impair any action taken pursuant to it prior to its modification or vacation.
5. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

7. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Richmond, Virginia

Date: October ____, 2007

United States Bankruptcy Judge

EXHIBIT 1

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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹	)	Chapter 11
)	
Debtors.)	
)	

**RETENTION AND COMPENSATION PROCEDURES FOR ORDINARY COURSE
PROFESSIONALS**

The following procedures (the “OCP Procedures”) shall govern the retention of professionals retained by the above-captioned debtors (collectively, the “Debtors”) in the ordinary course of business (the “OCPs”):²

- a. Each OCP shall file with the Court and serve a declaration of disinterestedness (each, a “Declaration of Disinterestedness”) substantially in the form attached hereto as Exhibit 2 upon: (i) the Debtors, Movie Gallery, Inc., 900 West Main Street, Dothan, Alabama 36301, Attn: S. Page Todd; (ii) counsel to the Debtors, Kirkland & Ellis LLP, 200 East

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

² Except as authorized by the Court, the OCP Procedures shall not apply to professionals retained by the Debtors pursuant to separate orders of the Court.

Randolph Drive, Chicago, Illinois 60601, Attn: Anup Sathy, P.C. and Marc J. Carmel; (iii) the Office of the United States Trustee, 600 East Main Street, Suite 301, Richmond, Virginia 23219, Attn: Robert Van Arsdale; (iv) counsel to the official committee of unsecured creditors, (v) counsel to the agents for the Debtors' postpetition secured lenders and the first lien lenders, Skadden Arps Slate Meagher & Flom LLP, Four Times Square, New York, New York 10036, Attn: Jay M. Goffman; and (vi) counsel to the agent for the second lien lenders, Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, New York 10005, Attn: Matthew S. Barr (collectively, the "Notice Parties").

- b. The Notice Parties shall have twenty (20) days after the filing and service of a Declaration of Disinterestedness to object to the retention of the OCP filing such declaration (the "Objection Deadline"). Any objecting party shall serve its objection upon the Notice Parties and the relevant OCP on or before the Objection Deadline. If an objection cannot be resolved within ten (10) days after the Objection Deadline, then the retention of the OCP that is the subject of the objection shall be scheduled for hearing by the Debtors at the next regularly scheduled omnibus hearing date that is no less than twenty (20) days from that date or on a date otherwise agreeable to the parties. The Debtors shall not be authorized to retain and pay such OCP until all outstanding objections have been withdrawn, resolved or overruled by order of the Court.
- c. If no objection is received from any of the Notice Parties by the Objection Deadline with respect to an OCP, the Debtors shall be authorized to retain and pay that OCP in accordance with these OCP Procedures.
- d. The Debtors are authorized to retain an OCP and pay such OCP, without formal application to the Court by any OCP, 100% of fees and disbursements to each of the OCPs retained by the Debtors after such OCP (i) files with the Court and serves upon the Notice Parties a Declaration of Disinterestedness for which the Objection Deadline lapses and no objections are pending and (ii) submits to the Debtors an appropriate invoice setting forth in reasonable detail the nature of the services rendered after the Commencement Date; provided that each OCP's fees, excluding costs and disbursements, do not exceed \$75,000 per month on average over a rolling three-month period while these chapter 11 cases are pending (the "OCP Cap").
- e. If an OCP exceeds the OCP Cap set forth in paragraph (d) hereof for any given month, on or before the thirtieth (30th) day of the month following the month for which compensation is sought, the OCP shall submit a monthly statement (each, a "Monthly Statement") to the Notice Parties.

The Monthly Statement shall include reasonably detailed invoices indicating the nature of the services rendered with fees and expenses calculated in accordance with such OCP's standard billing practices.

- f. The Notice Parties shall have twenty (20) days after the service of a Monthly Statement to object to the fees requested therein (the "Fee Objection Deadline"). Any objecting party shall serve its objection upon the Debtors and the relevant OCP on or before the Fee Objection Deadline. If an objection cannot be resolved within twenty (20) days after the Fee Objection Deadline, then the OCP whose Monthly Statement was objected to will be required to submit a formal application for compensation to the Court for the disputed fees and expenses and the matter shall be scheduled for a hearing by the Debtors at the next regularly scheduled omnibus hearing date that is no less than twenty (20) days from that date or on a date otherwise agreeable to the parties. If no objection to a Monthly Statement is received on or before the Fee Objection Deadline, the Notice Parties will be deemed to have waived their right to object and the Debtors shall pay the amounts in such Monthly Statement.
- g. At three-month intervals during the pendency of these chapter 11 cases (each, a "Quarter"), the Debtors shall file with the Court and serve on the Notice Parties, no later than 30 days after such Quarter, a statement that shall include the following information for each OCP: (i) the name of the OCP; (ii) the aggregate amounts paid as compensation for services rendered and reimbursement of expenses incurred by that OCP during the reported Quarter; (iii) all postpetition payments made to that OCP to date; and (iv) a general description of the services rendered by that OCP.
- h. The Debtors reserve the right to retain additional OCPs from time to time during these chapter 11 cases by (i) including such OCPs on an amended version of Exhibit B attached to the Motion that is filed with the Court and served on the Notice Parties and (ii) having such OCPs comply with the OCP Procedures.

EXHIBIT 2

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Proposed Co-Counsel to the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al., ¹	)	Chapter 11
)	
Debtors.)	
)	

**DECLARATION OF DISINTERESTEDNESS OF [OCP] IN SUPPORT OF RETENTION
AS ORDINARY COURSE PROFESSIONAL**

_____ being duly sworn, upon his/her oath, deposes and says:

1. I am a _____ of _____, located at _____ (the “Company”).

2. The above-captioned debtors (collectively, the “Debtors”) have requested that the Company provide [service description] services to the Debtors, and the Company has consented to provide such services.

¹ The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

3. The Company may have performed services in the past, may currently perform services and may perform services in the future, in matters unrelated to these chapter 11 cases, for persons that are parties in interest in the Debtors' chapter 11 cases. The Company does not perform services for any such person in connection with these chapter 11 cases, or have any relationship with any such person, their attorneys, or accountants that would be adverse to the Debtors or their estates.

4. As part of its customary practice, the Company is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be retained by the Debtors, claimants and parties in interest in these chapter 11 cases.

5. Neither I nor any principal, partner, director or officer of, or professional retained by, the Company has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of the Company.

6. Neither I nor any principal, partner, director or officer of, or professional retained by, the Company, insofar as I have been able to ascertain, holds, or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which this Company is to be retained.

7. The Debtors owe the Company \$_____ for prepetition services, the payment of which is subject to limitations contained in the Bankruptcy Code, 11 U.S.C. §§ 101-1532.

8. As of the Commencement Date, the Company was party to an agreement for indemnification with certain of the Debtors, which is attached as Exhibit A to this Declaration.

9. The Company is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of that inquiry, or at any time during the period of its retention, if the Company should discover any facts bearing on the matters described herein, the Company will supplement the information contained in this Declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____

EXHIBIT B

LIST OF ORDINARY COURSE PROFESSIONALS

Name	Service Provided
Aaron & Wilson 33 New Montgomery Street, 6th Floor San Francisco, California 94105 (415) 438-7804 Contact: Tim Wilson	Litigation Counsel
ADP 2205 Enterprise Drive, Suite C Florence, South Carolina 29501 (843) 679-2774 Contact: Elizabeth Heustess	Tax Consultants
Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway, Suite 600 Portland, Oregon 97205 (503) 459-4141 Contact: Matt Hall	Intellectual Property Litigation Counsel
Alston & Bird LLP One Atlantic Center 1201 West Peachtree Street Atlanta, Georgia 30309 (404) 881-7000 Contact: Randall Allen	Corporate, Securities and Litigation Counsel
Baker & Daniels LLP 300 North Meridian Street, Suite 2700 Indianapolis, Indiana 46204 (317) 237-0300 Contact: Roberta Sabin Recker	Litigation Counsel
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