
Fourth Report to Court of Duff & Phelps
Canada Restructuring Inc. as Information
Officer of Allied Systems Holdings, Inc.,
Allied Systems (Canada) Company, Axis
Canada Company and those other
companies listed on Schedule "A" hereto

January 11, 2013

Contents	Page
1.0 Introduction.....	1
1.1 Purposes of this Report	2
1.2 Currency.....	2
1.3 Restrictions	3
2.0 Background	3
3.0 Operations and Financing.....	4
4.0 Chapter 11 Proceedings	5
4.1 Requisite Lender.....	5
4.2 Sale Process.....	6
4.3 Other	7
5.0 Directors' and Officers' Charge	7

Appendices	Tab
Transcript from November 19, 2012 NY Court hearing	A
Correspondence dated December 13, 2012 from counsel representing Black Diamond/Spectrum to the U.S. Court	B
Rothschild Retention Order	C
U.S. Court's hearing schedules	D

Court File No.:12-CV-9757-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, C.C-36, AS AMENDED**

**AND IN THE MATTER OF ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS
(CANADA) COMPANY, AXIS CANADA COMPANY AND THOSE OTHER COMPANIES
LISTED ON SCHEDULE "A" HERETO**

**APPLICATION OF ALLIED SYSTEMS HOLDINGS, INC. UNDER SECTION 46 OF THE
COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C.C-36,
AS AMENDED**

**FOURTH REPORT OF DUFF & PHELPS CANADA RESTRUCTURING INC.
AS INFORMATION OFFICER OF
ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS (CANADA) COMPANY, AXIS
CANADA COMPANY AND THOSE OTHER COMPANIES
LISTED ON SCHEDULE "A" HERETO**

JANUARY 11, 2013

1.0 Introduction

On May 17, 2012, involuntary petitions were filed by BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd. and Spectrum Investment Partners, L.P. ("Black Diamond/Spectrum") against Allied Systems Holdings, Inc. ("Allied Systems US") and its subsidiary, Allied Systems, Ltd. (L.P.) ("ASL") pursuant to Chapter 11 of Title 11 of the *United States Code* ("Chapter 11") ("Involuntary Petitions") in the United States Bankruptcy Court for the District of Delaware ("U.S. Court").

On June 10, 2012, voluntary petitions were filed with the U.S. Court for relief under Chapter 11 by the US and Canadian subsidiaries of Allied Systems US ("Subsidiaries")¹ (Allied Systems US, ASL and the Subsidiaries are collectively

¹ The U.S. subsidiaries are: Allied Automotive Group, Inc.; Allied Freight Broker LLC; Axis Areta, LLC; Axis Group, Inc.; Commercial Carriers, Inc.; CT Services, Inc.; Cordin Transport LLC; F.J. Boutell Driveaway LLC; GACS Incorporated; Logistic Systems, LLC; Logistic Technology, LLC; QAT, Inc.; RMX LLC; Transport Support LLC; and Terminal Services LLC. The Canadian subsidiaries are Allied Systems (Canada) Company and Axis Canada Company.

referred to as the “Chapter 11 Debtors” or “Allied Group”), including Allied Systems (Canada) Company (“Allied Canada”) and Axis Canada Company (“Axis Canada”) (jointly, the “Canadian Debtors”). In connection therewith, Allied Systems US and ASL consented to the Involuntary Petitions. The cases commenced or consented to by the Chapter 11 Debtors in the U.S. Court are herein defined as the “Chapter 11 Proceedings”.

The Chapter 11 Debtors were granted ancillary relief under Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”) pursuant to an Order of the Ontario Superior Court of Justice (“Court”) dated June 12, 2012 (the “Initial Order”) and a Court Order dated June 13, 2012 (the “Supplemental Order”, and together with the Initial Order, the “Orders”).

Pursuant to the Orders, *inter alia*: a) the Chapter 11 Proceedings were recognized as a “foreign main proceeding” pursuant to Part IV of the CCAA; b) Allied Systems US was appointed as Allied Group’s foreign representative (“Foreign Representative”); c) certain orders made by the U.S. Court dated June 12, 2012 were recognized; and d) Duff & Phelps Canada Restructuring Inc. (“D&P”) was appointed as the Information Officer (the “Information Officer”).

On July 16, 2012, this Court made an Order: a) recognizing certain final orders of the U.S. Court that had previously been granted on an interim basis; b) approving certain ancillary relief in respect of Allied Group’s cash management system; and c) amending the Supplemental Order to provide for increased priority for the Administration Charge and the DIP Lender’s Charge (as both terms are defined in the Supplemental Order).

This report (“Report”) is filed in D&P’s capacity as Information Officer.

1.1 Purposes of this Report

The purposes of this Report are to:

- a) Provide background information about Allied Group; and
- b) Provide an update to the Court on the status of these proceedings and the Chapter 11 Proceedings, pursuant to the terms of the Supplemental Order.

1.2 Currency

All currency references in this Report are to United States dollars, unless otherwise noted.

1.3 Restrictions

In preparing this Report, the Information Officer has relied upon unaudited financial information prepared by Allied Group's representatives, Allied Group's books and records and discussions with its representatives. The Information Officer has not performed an audit or other verification of such information. The Information Officer expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Report, or relied upon by the Information Officer.

2.0 Background

Allied Group is primarily engaged in the "car-haul" business, being the transport by specially designed tractor trailers of vehicles, such as automobiles, sport-utility vehicles and light trucks, from manufacturing plants, ports, auctions, and railway distribution points to automobile dealerships in the United States and Canada. In Canada, this business is conducted by Allied Canada.

Allied Group also operates a logistics business which, among other things, arranges for and manages vehicle distribution services, automobile inspections, auction and yard management services, vehicle tracking, vehicle accessorizing, and dealer preparation services for the automotive industry in the United States and Canada, and provides yard management services in Mexico. In Canada, this business is conducted by Axis Canada.

Allied Group's operations are centralized from its head office located in Atlanta, Georgia. As of the date of the Orders, Allied Group employed approximately 1,835 individuals, including approximately 600 active employees in Canada². At that time, approximately 390 active Canadian employees were members either of the International Brotherhood of Teamsters or the Canadian Auto Workers' unions.

Further background concerning Allied Group was provided in the affidavit of Scott Macaulay, Senior Vice President and Chief Financial Officer of Allied Systems US, sworn June 11, 2012 ("Macaulay Affidavit") and the Information Officer's previous reports ("IO Reports"). The Macaulay Affidavit, the IO Reports and other materials filed with the Court in the Canadian proceedings are available on D&P's website at www.duffandphelps.com/restructuringcases. Information regarding the Chapter 11 Proceedings is posted on the "Restructuring News" portion of Allied Group's website at www.alliedautomotive.com.

² The number of active Canadian employees varies by season.

3.0 Operations and Financing

At the commencement of the Chapter 11 Proceedings, Allied Group entered into a debtor-in-possession loan facility in the amount of \$20 million (“DIP Facility”) with Yucaipa American Alliance Fund II, LLC, as agent, and Yucaipa Leveraged Finance, LLC and CB Investments, LLC, as lenders (“DIP Lender”).

Based on Allied Group’s books and records, as at December 31, 2012, Allied Group had borrowed \$13 million under the DIP Facility, which was approximately \$4.5 million lower than the amount Allied Group projected at the outset of the Chapter 11 Proceedings³. The difference results from, among other things:

- a) Allied Group deferring planned capital expenditures - \$4.6 million;
- b) Timing of professional fees payments - \$2.7 million;
- c) Reduction of certain operating expenses - \$0.4 million; and
- d) Lower than projected receipts in the period resulting from lower than projected revenue – (\$3.2 million).

As at December 31, 2012, Allied Group had liquidity of \$15.2 million (DIP Financing availability and unrestricted cash on hand), which was \$7.1 million higher than Allied Group’s internal projections prepared upon commencement of the Chapter 11 Proceedings. No direct advances have been made to the Canadian Debtors under the DIP Facility.

Pursuant to the DIP Facility, Allied Group had to maintain certain financial covenants, including a monthly minimum EBITDA covenant. Allied Group’s financial projections and the covenants related thereto, including the EBITDA covenant, contemplated growth of Allied Group’s business from existing and new customers. Due to, among other things, market dynamics and the duration of the Chapter 11 Proceedings, the growth has not materialized. Accordingly, in September, October and November 2012, Allied Group breached the EBITDA covenant (“Defaults”). According to Allied Group’s management, existing and prospective customers of Allied Group have been hesitant to sign contracts while Allied Group remains in Chapter 11. Consequently, Allied Group continues to have significant excess capacity. As of December 21, 2012, Allied Group had approximately 880 out of its readily available 2,000 tractor-trailers in use.

³ The projection is based on Allied Group’s DIP Facility budget provided to the DIP Lenders at the outset of the proceedings.

Allied Group informed the DIP Lender of the Defaults and is working with the DIP Lender on an amendment to the DIP Facility (“DIP Amendment”). According to Allied Group’s management, the DIP Amendment is not expected to have any material impact on Allied Group’s business as: a) the Defaults are expected to be waived; and b) availability under the DIP Facility will not be reduced.

In the interim, on December 7, 2012, the DIP Lender entered into a forbearance agreement with Allied Group (“Forbearance Agreement”) until the DIP Amendment is finalized. The Forbearance Agreement currently expires on January 28, 2013. The Information Officer understands that under the Forbearance Agreement, the DIP Lender has agreed to forbear from exercising its rights under the DIP Facility against Allied Group.

Aside from the foregoing, the Information Officer understands that Allied Group’s operations, including those of the Canadian Debtors, have continued in the ordinary course and without significant disruption since the commencement of the Chapter 11 Proceedings.

4.0 Chapter 11 Proceedings

4.1 Requisite Lender

Pursuant to a first lien facility (“First Lien Facility”) and second lien facility, both dated May 15, 2007, as amended, Black Diamond/Spectrum, Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP (jointly “Yucaipa Defendants”) and other parties are lenders to Allied Group.

On January 18, 2012, Black Diamond/Spectrum filed suit against the Yucaipa Defendants in the Supreme Court of the State of New York (“NY Court”) to seek a judicial declaration that the Fourth Amendment to the First Lien Facility dated August 21, 2009⁴ is null and void and that, consequently, the Yucaipa Defendants are not the Requisite Lender (“Requisite Lender”) as defined in the First Lien Facility (“Requisite Lender Suit”).

The Requisite Lender has certain voting and other rights with respect to the First Lien Facility, which could include the right to credit bid in a sale process for Allied Group’s assets. Accordingly, its determination is relevant to these proceedings.

⁴ The effect of the Fourth Amendment was to designate the Yucaipa Defendants as the Requisite Lender, as further described in the NY Court hearing transcript included in Appendix “A”.

On November 19, 2012, the NY Court heard the Requisite Lender Suit and granted summary judgment in favour of Black Diamond/Spectrum. A copy of the transcript from the NY Court hearing is provided in Appendix “A”. The NY Court has yet to issue a written ruling with respect to the decision. As such, there is uncertainty as to the scope and effect of the NY Court’s summary judgment as it relates to the Requisite Lender and other amendments to the First Lien Facility, including the Third Amendment to the First Lien Facility dated April 17, 2008, as further detailed below.

Both Allied Group and the Yucaipa Defendants have applied to the U.S. Court to hear claims on the validity of certain amendments to the First Lien Facility and certain other issues not argued before the NY Court. The Yucaipa Defendants argue that: “The lenders’ rights to credit bid for the Debtors’ assets must be determined under the Third Amendment as a gating item to the Debtors’ exit from the instant chapter 11 cases. Moreover – and critical for purposes of the Abstention Cross Motion – no state court proceeding (a) currently exists or (b) can timely adjudicate those and other issues associated with the Third Amendment”⁵. Allied Group has, among other things, sought “a declaration identifying the Requisite Lender and setting forth which portions of the First Lien Credit Agreement, including the Third and Fourth Amendments, are valid and enforceable in accordance with their express terms”. Allied Group’s view is that, among other things, if the U.S. Court considers and determines all matters related to identification and rights of the Requisite Lender, Allied Group may be able to complete its restructuring expeditiously.

Black Diamond/Spectrum has filed a cross-motion for the U.S. Court to abstain from hearing matters related to the Requisite Lender. In their view, the NY Court has jurisdiction over the Requisite Lender issues. Correspondence dated December 13, 2012 from counsel representing Black Diamond/Spectrum to the U.S. Court regarding the Requisite Lender Suit and the position of the parties is provided in Appendix “B”.

4.2 Sale Process

As detailed in the Information Officer’s Third Report to Court dated October 11, 2012 (“Third Report”), on June 28, 2012, Allied Group filed materials seeking U.S. Court approval to retain Rothschild Inc. (“Rothschild”) as its financial advisor and investment banker. The purpose of Rothschild’s engagement is to, *inter alia*, conduct a sale process for Allied Group’s business and assets. Objections were

⁵ Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP’s Supplemental Brief in support of their objection to cross-motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd and Spectrum Investment Partners, L.P. pursuant to 28 U.S.C. §1334(C) for Abstention dated December 17, 2012.

filed by Black Diamond/Spectrum, the Official Committee of Unsecured Creditors and the Office of the U.S. Trustee (together, the “Parties”) to certain terms of Rothschild’s retention arrangement.

Since the date of the Third Report, the Parties and Allied Group negotiated an amended retention arrangement. On October 16, 2012, the U.S. Court made an order authorizing Allied Group to employ and retain Rothschild in accordance with the amended terms and conditions. A copy of the U.S. Court’s order is provided in Appendix “C”.

The sale process commenced by Rothschild for Allied Group’s business and assets, including the business and assets of the Canadian Debtors, is ongoing. Rothschild has advised the Information Officer that it is in discussions with prospective purchasers and is facilitating their diligence review; however, a date for binding offers has not yet been set.

4.3 Other

The U.S. Court has heard and granted certain of the Allied Group’s motions, including a motion to assume certain real estate leases and to reject others and motions to approve a premium financing agreement for 2013 insurance coverage.

The U.S. Court’s schedules for hearings held in October, November and December, 2012 (together, the “Schedules”) are provided in Appendix “D”. The Schedules summarize each of the motions and indicate whether the matter proceeded on consent or subject to objections.

5.0 Directors’ and Officers’ Charge

As a Canadian transportation carrier, Allied Canada is subject to the *Canada Labour Code* (“CLC”). Section 251.18 of the CLC imposes joint and several liability on directors of a company for, among other things, wages, severance and termination pay, subject to certain conditions.

Pursuant to a Notice of Motion returnable July 31, 2012, the Foreign Representative sought a Court-ordered directors’ and officers’ charge (“D&O Charge”), in the maximum amount of CDN \$9.9 million, on the collateral of the Canadian Debtors for the benefit of the Canadian Debtors’ directors and officers (current and former, actual and deemed). The D&O Charge would address, among other things, liabilities associated with severance and termination pay arising before and after the commencement of the Chapter 11 Proceedings and other statutory obligations, such as wages, withholdings and sales taxes, arising after the commencement of the Chapter 11 Proceedings. Access to the D&O Charge would only be available if the directors’ and officers’ insurance maintained

by Allied Group is not available or is not sufficient. Further background information regarding the D&O Charge is included in the Information Officer's Second Report to Court dated July 26, 2012.

The hearing regarding the D&O Charge was adjourned following comments made by certain of the Canadian Debtors' stakeholders. Since that time, the Canadian Debtors and their stakeholders have been discussing a possible settlement solution. On January 11, 2013, the Court further adjourned the hearing with respect to this matter to a date no later than March 1, 2013.

* * *

All of which is respectfully submitted,



**DUFF & PHELPS CANADA RESTRUCTURING INC.
IN ITS CAPACITY AS INFORMATION OFFICER OF
ALLIED SYSTEMS HOLDINGS, INC., ALLIED SYSTEMS (CANADA) COMPANY, AXIS
CANADA COMPANY AND THOSE OTHER COMPANIES LISTED ON SCHEDULE "A"
HERETO AND NOT IN ITS PERSONAL CAPACITY**

Schedule “A”

SCHEDULE A – APPLICANTS

Allied Systems Holdings, Inc.

Allied Automotive Group, Inc.

Allied Freight Broker LLC

Allied Systems (Canada) Company

Allied Systems, Ltd. (L.P.)

Axis Areta, LLC

Axis Canada Company

Axis Group, Inc.

Commercial Carriers, Inc.

CT Services, Inc.

Cordin Transport LLC

F.J. Boutell Driveway LLC

GACS Incorporated

Logistic Systems, LLC

Logistic Technology, LLC

QAT, Inc.

RMX LLC

Transport Support LLC

Terminal Services LLC

Appendix “A”

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK : CIVIL DIV. : PART 53

-----X
BDCM OPPORTUNITY FUND II, LP, BLACK :
DIAMOND CLO 2005-1 LTD, and SPECTRUM :
INVESTMENT PARTNERS, L.P., :

Plaintiffs, :

- against - :

Index No.
650150/12

YUCAIPA AMERICAN ALLIANCE FUND I, LP, :
and YUCAIPA AMERICAN ALLIANCE (PARALLEL) :
FUND I, LP, :

Defendants. :

-----X MOTION

60 Centre Street
New York, New York
November 19, 2012

B E F O R E :

HON. CHARLES E. RAMOS,
Justice

A P P E A R A N C E S :

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ROBERT PORTAS, R.P.R., C.R.R.
SENIOR COURT REPORTER

1 THE COURT: Good morning.

2 MR. WARD: Good morning, Your Honor.

3 THE COURT: If necessary you'll use the lecturn.
4 It's up to the court reporter. It's easier for him to
5 hear.

6 MR. WARD: All right, Your Honor, I'll move to the
7 lecturn.

8 THE COURT: Okay. You may now commence to confuse
9 me.

10 MR. WARD: Thank you, Your Honor. I hope to
11 unconfuse you as we go through the argument.

12 Your Honor, I'm Robert Ward for Schulte, Roth &
13 Zabel, on behalf plaintiffs. We're the movant on this
14 motion for summary judgment, Your Honor. This is a
15 straight forward action asserting one cause of action
16 that only seeks one remedy, a declaration as to the
17 meaning of certain contract language.

18 The relief sought in this summary judgment
19 motion is that the purported fourth amendment was not and
20 never was effective and that the defendants in this case
21 are not and may not act as the requisite lenders in
22 connection with the debt of a company called Allied.

23 We were before Your Honor on a prior motion to
24 dismiss, you may remember.

25 As a result, Your Honor, this case presents a
Robert Portas, RPR, CRR

1 pure question of contract construction relating to the
2 effectiveness of the amendment -- fourth amendment to the
3 credit agreement. The question can be answered upon the
4 unambiguous terms of the agreements, and no discovery of
5 the extrinsic evidence is necessary. The case law is not
6 in dispute. This is a straight, simple, teed-up contract
7 construction case declaratory judgment action, Your
8 Honor.

9 The issue before this Court, Your Honor, is
10 whether under the plain terms of the credit agreement
11 whether the purported fourth amendment had, quote, the
12 effect of, unquote, amending the definition of "Requisite
13 lender" within the meaning of Section 10.5B of the credit
14 agreement, thereby requiring the consent of all affected
15 lenders.

16 Your Honor, my clients are among those affected
17 lenders, and their consent was never obtained.

18 As Your Honor is aware, where the intention of
19 the parties may be gathered from the four corners of an
20 instrument, the interpretation of the contract is a
21 question of law, no trial is necessary, summary judgment
22 is appropriate. On the application -- on an application
23 to construe language in a contract such as this, Your
24 Honor, the Court is not to look to extrinsic evidence to
25 create an ambiguity, rather the Court is to look to the
Robert Portas, RPR, CRR

1 contract itself to determine if there is an ambiguity.

2 That's clear case law, Court of Appeals 2001
3 Reese versus Financial performance [phonetic].

4 Rather than limit themselves -- the defendants
5 here, Your Honor, rather than limiting themselves to the
6 language of the contracts submit substantial amounts of
7 extrinsic evidence. They're putting the cart before the
8 horse. What Your Honor's task and duty is is to look at
9 the contractual language first and see if there's any
10 ambiguity; if so, then look to extrinsic evidence.

11 We believe the contract is unambiguous and if
12 Your Honor determines the contract, in fact, is ambiguous
13 you'll deny the motion and your decision clearly will
14 give us guidance as to what discovery to take thereby
15 saving a whole lot of money. Your decision will give us
16 guidance as to what extrinsic evidence to look to, and,
17 as a result, we will be guided by Your Honor's decision
18 and as a result this motion is timely.

19 THE COURT: All right. What paragraph of the
20 credit agreement controls?

21 MR. WARD: Your Honor, 10.5B. That's what
22 controls the amendment, Your Honor.

23 THE COURT: What page is that?

24 MR. WARD: And it's 10.5B of the credit agreement,
25 which is Exhibit 1 to the Urlich [phonetic] affidavit.

Robert Portas, RPR, CRR

1 THE COURT: 10.05 or 10.5?

2 MR. WARD: 10.5, Your Honor. It's on Page 160.

3 What's interesting about this provision, Your
4 Honor, I'll jump ahead, is it's a little bit unusual in
5 the sense that -- it's on Page 160, Your Honor. 10.5B.
6 "Affected --"

7 THE COURT: Starts on 159.

8 MR. WARD: Okay. Well, 10.5 starts on 159. It's
9 10.5B that's relevant, Your Honor.

10 In that provision, Your Honor, it says, as you
11 can see, "Without the written consent of each lender,
12 other than a defaulting lender, that would be affected
13 thereby, no amendment, modification, termination or
14 consent shall be effective. If the effect thereof
15 would..."

16 And then it's Roman-ette IX, Your Honor. At the
17 bottom of that page, Your Honor.

18 "...amend the definition of 'requisite lender.'"

19 And that's what happened here by the fourth
20 amendment, Your Honor.

21 Your Honor, I know that you've read the papers.
22 Should I give you a little background on the transaction?

23 THE COURT: No. That's not particularly important
24 right now.

25 Let me hear from the other side and see where
Robert Portas, RPR, CRR

1 we're going. Maybe we have it.

2 MR. KASOWITZ: Thanks, Your Honor. Marc Kasowitz
3 for the defendants.

4 Before we get to the contract, there's a gating
5 issue I think that counsel hasn't mentioned, and the
6 gating issue really is--and the plaintiffs have not moved
7 for summary judgment with respect to this--the question
8 of whether or not there are triable issues of fact with
9 respect to the defendant's affirmative defenses. We have
10 affirmative defenses based on res judicata, waiver,
11 estoppel. Your Honor will recall that you denied our
12 motion, our 3211, on -- based on res judicata, but Your
13 Honor, and it was very clear from the transcript at the
14 hearing, Your Honor said, "Look, we haven't had any
15 discovery here yet, we haven't fleshed out any of these
16 issues, and I will not find as a matter of law that there
17 is a res judicata effect from the Georgia action, but
18 there may be a valid defense here."

19 And, in fact, Your Honor, with respect to that
20 Georgia action, we have admissions from the plaintiffs
21 that the subject matter of the Georgia action is
22 precisely the same as the action that's been brought
23 here. We have admissions from them that there is -- that
24 there was, you know, no issue about that whatsoever. The
25 only issue that defendants have with respect to the
Robert Portas, RPR, CRR

1 Georgia action is that they say that CI--- that CIT,
2 which had been the defendant in that action and which had
3 asserted counterclaims against Yucaipa, that CIT
4 really -- they were really not in privity with CIT. They
5 admit in certain places, Your Honor, that -- that CIT was
6 their agent, was there administrative agent. We have
7 admissions, Your Honor, from the client itself, from
8 Mr. Erlich himself in which he said that CIT was
9 defending the plaintiffs in that Georgia action as their
10 agent.

11 Now, they changed their position when the motion
12 to dismiss was made, I think there's a statement, I'll
13 find it here, where the plaintiffs questioned whether CIT
14 ever was their agent. Quote -- this is at Page 19 of --
15 in their motion to dismiss: Quote, "Indeed, whether CIT
16 ever acted as an agent for plaintiffs in the Georgia
17 action is in doubt," closed quote.

18 But that's not what they said in the complaint
19 in this case. And at Paragraph 10 of the -- in the
20 complaint in this case, "At first, consistent with its
21 obligations to the lenders as administrative agent, CIT
22 refused to acknowledge the validity of the purported
23 fourth amendment of Yucaipa's status as alleged requisite
24 lenders."

25 "Consistent with its obligations to the lenders
Robert Portas, RPR, CRR

1 as administrative agent." And it's not what Mr. Erlich
2 wrote in his affidavit opposing our extension of time to
3 respond to the complaint in the first place. What he
4 wrote there was, "Notwithstanding what CIT had admitted
5 in its counterclaim was its obligation to act for the
6 benefit of all lenders, including plaintiffs," CIT now
7 has acquiesced in Yucaipa's, what they called a flagrant
8 breach.

9 So they want it really both ways, Your Honor.
10 When it suited their purposes that CIT was defending them
11 in the Georgia action, was asserting counterclaims in its
12 representative capacity on their behalf, that was fine.
13 But then when it came to pass that CIT had made a
14 determination as a lender and as an administrative agent
15 and as an other agent in its fiduciary capacity to these
16 plaintiffs to reach a settlement of the case, that these
17 plaintiffs apparently disagreed with, then it wasn't an
18 agent anymore.

19 Clear issues of fact --

20 THE COURT: But the authority of an agent is
21 obviously a matter of agreement. Particularly by the
22 principal.

23 MR. KASOWITZ: Well -- but, Your Honor --

24 THE COURT: Not after the fact. I understand
25 that. But, you know -- now, are we teeing up that there
Robert Portas, RPR, CRR

1 could be agency questions here as well?

2 MR. KASOWITZ: Absolutely, Your Honor. But there
3 hasn't been an ounce of discovery on this yet. What
4 happened was after the motion to dismiss was denied, then
5 there was a period of time where there was some
6 negotiations and the like; Your Honor said after the
7 conference that there would be a scheduling conference
8 called. We waited for the scheduling conference, we didn't
9 want to run up needless expense and the like if there was
10 going to be a settlement. Ultimately there was no
11 settlement, and then three or four days after the
12 settlement talks broke down, the plaintiffs here served a
13 motion for summary judgment not on these affirmative
14 defenses but on this argument about the contract being
15 clear from the four corners of it, which I'll address in a
16 second.

17 So we have so many statements from these -- from
18 these -- from these plaintiffs, from their lawyer, from
19 the principals, in their pleadings, sworn statements as
20 well, that CIT was acting as their agent. If CIT was
21 acting as their agent, then there would be a question of
22 whether or not the final judgment--and there was a final
23 judgment on consent in the Georgia -- in the Georgia
24 case--whether or not that bars this action from the
25 getgo. So that's the gating issue, Your Honor. And
Robert Portas, RPR, CRR

1 that's an issue upon which we need discovery.

2 THE COURT: Was CIT acting on behalf of the
3 plaintiffs in that action?

4 MR. KASOWITZ: Yes, Your Honor.

5 MR. WARD: Your Honor, I don't want to interrupt
6 Mr. Kasowitz --

7 MR. KASOWITZ: Excuse me.

8 MR. WARD: -- since he said it's a gated issue,
9 and instead of dealing with our claim and our motion he's
10 dealing with the affirmative defense, and as a result has
11 kind of flipped the case, what he's done on the affirmative
12 defense -- and I apologize for interfering. Could I
13 address the affirmative defenses first, because they're
14 easy to resolve, and then we can get back to our actual
15 motion? These affirmative defenses are not the motion and
16 these affirmative defenses don't create any extrinsic
17 issues of fact, because there are governing documents that
18 resolve the res judicata issue and the waiver issue. I'm
19 happy to have Mr. Kasowitz --

20 THE COURT: Wait until he finishes and we'll come
21 back to it.

22 MR. WARD: Thank you.

23 MR. KASOWITZ: So, Your Honor --

24 THE COURT: So where are you -- we're arguing both
25 of these issues. Okay.

Robert Portas, RPR, CRR

1 MR. KASOWITZ: Only because we never get --
2 counsel says that we've put the cart before the horse, we
3 say that --

4 THE COURT: You're not supposed to agree with each
5 other.

6 MR. KASOWITZ: We don't agree with each other.
7 But you really never -- you never get to an argument
8 about --

9 THE COURT: You'll never get to the argument about
10 the language in this contract until we start talking about
11 it. So we've got two issues at least to talk about.

12 MR. KASOWITZ: So let's deal with the language in
13 the contract, Your Honor.

14 THE COURT: Yes.

15 MR. KASOWITZ: So it's clear that we need
16 discovery on the issue of the affirmative defenses.

17 As to the four corners of the agreement: I
18 think it's ironic, Your Honor, that the -- that the
19 plaintiffs are arguing that the four corners of the
20 agreement support their argument. Their argument is that
21 there was an amendment to -- there was an amendment to
22 the definition of the term "Term Loan Exposure" in the
23 fourth amendment, and that --

24 THE COURT: I thought they why complaining about
25 that there was an amendment of the definition of "Requisite
Robert Portas, RPR, CRR

1 Lender."

2 MR. KASOWITZ: Well, but there was not amendment
3 to definition of "Requisite Lender"?

4 THE COURT: You guys can't agree on anything.

5 MR. KASOWITZ: There was no -- there was no
6 amendment to the definition of "Requisite Lender," Your
7 Honor. I represent that to the Court. They will admit
8 that that is true. There was no written amendment to the
9 term "Requisite Lender."

10 THE COURT: You just won your motion.

11 MR. WARD: No, no. We disagree.

12 MR. KASOWITZ: What they're going to do -- what
13 they're going to do is get up and say that because there
14 was an amendment to the -- to the term "Term Loan
15 Exposure," that necessarily meant that there had to have
16 been some amendment to the term "Requisite Lender," even
17 though there wasn't and that as a result of that there
18 should have been the consent of all the lenders obtained by
19 the requisite -- by the requisite lender before he
20 proceeded with the amendment.

21 THE COURT: Which exhibit is the offensive
22 amendment?

23 MR. KASOWITZ: Pardon me, Your Honor?

24 THE COURT: Which exhibit is the offensive
25 amendment? Is it 3 or 4?

Robert Portas, RPR, CRR

1 MR. KASOWITZ: It's the fourth one. But the third
2 one bears on this, too, Your Honor. Because there also was
3 an amendment -- let's deal --

4 MR. WARD: It's Exhibit 6, Your Honor.

5 MR. KASOWITZ: We will deal with one at a time.
6 There was also an amendment to the term "Term
7 Loan Exposure" in the third as well. There was not
8 the -- there was no consent -- there was no consent
9 obtained of all of the lenders at that time either. The
10 plaintiffs did not -- whether they agreed with that or
11 didn't agree with that, they never took the position that
12 the failure to have obtained the consent of all the
13 lenders for the third amendment rendered that amendment
14 invalid. They come to claim with respect to the fourth
15 amendment that because there was an amendment to the term
16 "Term Loan Exposure," there was no amendment to
17 "Requisite Lenders," not at all, because there was a --
18 an amendment to "Term Loan Exposure," that had some kind
19 of effect on the -- on the term "Requisite Lenders."

20 But, Your Honor, just so we're very, very clear,
21 Your Honor just looked at and you correctly identified
22 that amendments and waivers under the credit agreement
23 are 10.5A and B.

24 Under A the requisite lender gets to make
25 determinations about amendments itself without seeking or
Robert Portas, RPR, CRR

1 soliciting the consent of all of the lenders.

2 Under B, B is very, very specific, and it talks
3 about the circumstances in which the consent of all of
4 the lenders, all of the affected lenders needs to be
5 obtained.

6 THE COURT: Now I'm not -- now I'm not following
7 this. Hang on.

8 You say A does not require requisite lender's
9 consent?

10 MR. KASOWITZ: Correct. No, no, only the
11 requisite lender's consent.

12 THE COURT: Okay.

13 MR. KASOWITZ: The requisite lender is the --

14 THE COURT: And B is the affected lenders.

15 MR. KASOWITZ: Correct, Your Honor.

16 THE COURT: Okay.

17 MR. KASOWITZ: The requisite lender is the lender
18 that on an operational basis runs things. So -- so you
19 don't need consent under A. In the specific circumstances
20 enumerated under B, which are eleven, eleven circumstances,
21 it's on Page 160 and 161.

22 THE COURT: Wait a minute. Under A, the agent,
23 with the consent of each borrower only can modify or
24 supplement the agreement, cure any ambiguity.

25 MR. KASOWITZ: That's separate.

Robert Portas, RPR, CRR

1 THE COURT: A requires consent.

2 MR. KASOWITZ: No, Your Honor. That's dealing
3 only with -- that's dealing with something else. It's the
4 first part, "Subject to the additional requirements of
5 Sections 10.5B and 10.5C, no amendment, modification,
6 termination or waiver of any provision of the credit
7 documents or consent to any departure by any credit party
8 therefrom shall in any event be effective without the
9 written concurrence of the requisite lenders."

10 THE COURT: Right. Okay.

11 MR. KASOWITZ: Those are the people who own over
12 50 percent of -- of the debt.

13 THE COURT: And plaintiff's a requisite lender;
14 correct?

15 MR. KASOWITZ: Plaintiffs are not requisite
16 lenders.

17 THE COURT: Not.

18 MR. KASOWITZ: They don't own it.

19 THE COURT: Only affected lender.

20 MR. KASOWITZ: That's -- they claim to be affected
21 lenders, but they're not.

22 For the fourth amendment, Your Honor, the
23 requisite lender was ConVest. And ConVest had
24 transferred -- had entered into an arrangement whereby
25 Yucaipa, which is purchased debt to bring it over
Robert Portas, RPR, CRR

1 50 percent had become the requisite lender.

2 The plaintiffs claim that that was invalid
3 because the term -- because the term that I mentioned
4 before, "Term Loan Exposure," had changed. There was
5 never any change in the definition of "requisite lender."

6 THE COURT: Plaintiff, what's the language either
7 in -- let's look at Exhibit 4, since that's the --

8 MR. WARD: Your Honor, I have to backtrack just a
9 second to tell you here's the problem: If you look at
10 10.5B, it doesn't require that there be an actual change in
11 the definition. Because if you look at 10.5B but not
12 Roman-ette X but the preface to it, it says, "If the effect
13 thereof would amend the definition of 'Requisite Lender.'"

14 And, Your Honor, if you stay on the credit
15 agreement and look at Page 43, the definition of
16 "Requisite Lender," which we we've been talking about
17 here, that's on Page 41 actually, if you can go to that,
18 Your Honor.

19 THE COURT: Give me a moment.

20 MR. WARD: Now, remember, on 10.5B it's not a
21 change to the definition itself, it's a change which has
22 the effect of.

23 THE COURT: Okay.

24 MR. WARD: And, Your Honor --

25 MR. KASOWITZ: I disagree.
Robert Portas, RPR, CRR

1 MR. WARD: I'm sorry, can we -- I'm sorry, please,
2 Your Honor --

3 MR. KASOWITZ: I disagree, Your Honor.

4 MR. WARD: Your Honor, may I continue?

5 THE COURT: Hang on.

6 Requisite Lenders --

7 MR. WARD: Requisite lender is on Page 41.

8 THE COURT: "'Requisite Lenders' means one or more
9 lenders having or holding term loan exposures."

10 MR. WARD: That's the key term, Your Honor. And
11 then continue, "Representing more than 50 percent of the
12 sum of," Roman-ette I, "the aggregate term loan exposure."

13 What happened is in the fourth amendment they
14 changed the definition of term loan exposure. And I have
15 to do a little bit of a sidelight and I'll do it in
16 thirty seconds.

17 THE COURT: What paragraph on the fourth
18 amendment?

19 MR. WARD: The paragraph on the fourth amendment,
20 Your Honor. But we have to go to the third amendment
21 first.

22 THE COURT: Okay.

23 MR. WARD: Because there's a third amendment, Your
24 Honor. Here's what happened: Your Honor, Yucaipa, who is
25 the client -- the defendant here, was the sponsor of Allied
Robert Portas, RPR, CRR

1 could not be a lender, could not be a requisite lender
2 because it's the senior debt -- a senior equity holder of
3 Allied. So what happened is they were prevented from
4 taking over the debt for obvious reasons. If they took
5 over the debt and they controlled the equity, the rest of
6 the debtors would never get paid.

7 THE COURT: Sure.

8 MR. WARD: But in the third amendment they were
9 allowed to buy some debt. But it's what I called neutered
10 debt, Your Honor, because in the third amendment this debt
11 is not allowed to vote. The definition of "Term Loan
12 Exposure" is amended in the third amendment to say that
13 "Any debt owned by Yucaipa cannot be counted in connection
14 with any voting provision."

15 THE COURT: All right.

16 MR. WARD: The definition of "Requisite Lender" is
17 a voting provision, and they could only buy as much as
18 25 percent; they need 50 percent to become the requisite
19 lender.

20 THE COURT: Right.

21 MR. WARD: So here's what happened: In the third
22 amendment my clients were not affected because, although
23 now Yucaipa is allowed to buy debt, it's allowed to buy
24 some debt, it can't use the debt for anything. That's why
25 I called it neutered. It can't vote it, it doesn't count

Robert Portas, RPR, CRR

1 for term loan exposure.

2 THE COURT: No harm no fowl.

3 MR. WARD: It can't -- now, what happens, though,
4 is in the fourth amendment -- and what happened here is
5 Yucaipa did in two steps what they were prohibited in doing
6 from one step -- and the fourth amendment they took away
7 all those restrictions. In other words, in the third
8 amendment Yucaipa is allowed to buy debt for the first
9 time, but neutered debt with no right to vote, where the
10 definition of "Term Loan Exposure" is changed to say it
11 doesn't count for the "Requisite Lender" provision.

12 And in the fourth amendment, though, they do a
13 little slight of hand, they take away the provisions that
14 say you can't vote it and they take away the limitation
15 on term loan exposure.

16 And, remember, 10.5B says "The effect thereof."
17 And what's important, Your Honor, is it's not only 10.5A
18 and B, it's also 10.5C. 10.5C requires affected lender
19 consent if the definition is changed. That's different
20 from 10.5 B. 10.5B goes the extra mile, it says, "If the
21 effect of the amendment is to change the definition."
22 10.5C says "If the definition is changed."

23 As Your Honor knows, under the canons of
24 construction, you have to give full effect to all the
25 language in an agreement. 10.5B makes the very definite
Robert Portas, RPR, CRR

1 point, definitive point, of saying that it's not only if
2 the amendment changes but if it's the amendment has the
3 effect of changing the definition.

4 Now, the definition of "Requisite Lender," which
5 I showed you, Your Honor, on Page 41, contains the term
6 "Term Loan Exposure." That determines how you become a
7 requisite lender. Because, if your debt doesn't count,
8 and under the third amendment, Your Honor, Yucaipa's debt
9 didn't count, it was neutered debt. If your debt doesn't
10 count, you can't become the requisite lender.

11 And, by the way, what is the requisite lender?
12 It's the lender that controls the debt. There are so
13 many provisions, and we cite them in our brief, where the
14 sole purpose of the requisite lender, Your Honor, is to
15 vote; it's to give consents, such as under 10.5A; it's to
16 act on remedies when there's an event of default. The
17 requisite lender is the voting entity that controls the
18 debt.

19 So what happened is in the third amendment
20 Yucaipa was given the ability to buy debt, but with no
21 voting restrictions and with a -- with no voting rights
22 and with a restriction on term loan exposure saying,
23 "Your definition of -- term loan exposure does not count
24 for any voting provision."

25 THE COURT: I got it. I got to.
Robert Portas, RPR, CRR

1 MR. KASOWITZ: May I, Your Honor?

2 THE COURT: Defendant, you've got a problem.

3 MR. KASOWITZ: No we don't, Your Honor. The
4 reason we don't have a problem here --

5 THE COURT: You do with me. Go ahead.

6 MR. KASOWITZ: Well, the reason we shouldn't have
7 a problem, Your Honor, is because everything that counsel
8 just said about the definition of "Requisite Lender" is
9 untrue.

10 "Requisite Lender" -- the definition of
11 "Requisite" -- First of all, there was no change to the
12 definition of "Term Loan Exposure." No change in the
13 definition whatsoever. Nothing that affected it, no
14 change whatsoever.

15 Secondly, Your Honor --

16 THE COURT: What did the language, then, in 10B
17 "Shall be effective, if the --" that the amendment will not
18 be effective if the effect would amend the definition. It
19 doesn't say "Amend the definition." "If the effect would
20 amend the definition of 'Requisite Lender.'"

21 MR. KASOWITZ: But the effect has to still amend
22 the definition.

23 THE COURT: Now a requisite lender can be an
24 equity holder.

25 MR. KASOWITZ: Yes, Your Honor. But --
Robert Portas, RPR, CRR

1 THE COURT: That's a big deal.

2 MR. KASOWITZ: But there was no change in the
3 definition. There was no change in the definition of
4 "Requisite Lender."

5 THE COURT: Strike three. Move on to another
6 subject. You've just lost that argument.

7 MR. KASOWITZ: Your Honor, if I could.

8 THE COURT: Believe me, you've just lost it.

9 MR. KASOWITZ: If I could, Your Honor? If I
10 could, please?

11 THE COURT: Go ahead.

12 MR. KASOWITZ: The -- the counsel's argument
13 wholly depends on the argument that the power -- that the
14 qualifications for and job of a requisite lender depend on
15 voting. That's their argument. It all depends on voting.
16 If you look on Pages 8 through 9 of their brief, they
17 couldn't say it any more clearly, "The rights from which
18 defendants were expressly denied under the third amendment
19 to be disregarded from any provision of this agreement
20 relating to the voting rights of lenders are precisely the
21 types of rights vested in the requisite lenders under the
22 credit agreement; IE, the ability to consent to certain
23 amendments, waivers, et cetera, under Section 10.5B.
24 Without this authority and the voting power to back it up,
25 the requisite lenders would have no ability to perform the
Robert Portas, RPR, CRR

1 functions contemplated by the credit agreement.

2 "Defendant's argument that they could be
3 requisite lenders but not vote is thus disingenuous and
4 overly technical. The entire purpose of being requisite
5 lenders is so you can exercise voting rights associated
6 with more than 50 percent of the debt in respect of
7 waivers, consent rights and the like to be requisite
8 lenders in name only, with no ability to act improperly,
9 elevates form over substance."

10 Your Honor, that is just flat wrong under this
11 credit agreement. If you look back to -- if you look
12 book to 10B --

13 THE COURT: Yes.

14 MR. KASOWITZ: -- back on 10B, when you look at
15 10B you'll see that in 10A there are a whole number of acts
16 that the requisite lenders may take without -- without
17 consulting anyone else. They make those decisions
18 themselves.

19 With respect to 10B, that's a requirement that
20 others vote but not that the requisite lenders vote.
21 So -- so it's absolutely -- it's very, very clear from --

22 THE COURT: I'm not following you. And I think
23 I'm not following you because what you're saying is not
24 logical.

25 MR. KASOWITZ: It's true, Your Honor. But it's
Robert Portas, RPR, CRR

1 true. The definition of "Voting" has nothing to do with a
2 requisite lender. We have -- if you look at the powers
3 that --

4 THE COURT: You've got to be kidding.

5 MR. KASOWITZ: It has nothing to do with it, Your
6 Honor. If you look at the powers that the requisite lender
7 has, "The requisite lender instructs the agents to act or
8 refrain from acting." That's Section 9.3B, Page 152 of the
9 credit agreement. It has nothing -- it doesn't speak to
10 voting rights at all. "The requisite lender may control
11 the exercise of remedies during a non-bankruptcy event of
12 default." That's section 8.1.

13 THE COURT: Are you saying that they don't have
14 the power to make the amendments, modifications or waivers
15 that the plaintiff's complaining about? Of course they do.

16 MR. KASOWITZ: They do have the power to do these
17 things, but it doesn't --

18 THE COURT: They do that by voting.

19 MR. KASOWITZ: No, no, this does not involve
20 voting, Your Honor. I'm going through all of the powers
21 that they have. The most important power is to instruct
22 the agents to act or refrain from acting. That has nothing
23 to do with voting, Your Honor. That's Section 9.3B. They
24 control the exercise of remedies during a non-bankruptcy
25 event of default. That's Section --

Robert Portas, RPR, CRR

1 THE COURT: How do the requisite lenders act as a
2 group? They vote on something. Right?

3 MR. KASOWITZ: Your Honor, here there is no group
4 of requisite lenders. There isn't a group.

5 THE COURT: There's just one?

6 MR. KASOWITZ: There's just one. It's Yucaipa.
7 It owns more than 50 percent. It's just one. There's no
8 voting.

9 THE COURT: Before Amendment 3, who were the
10 requisite lenders?

11 MR. KASOWITZ: Before Amendment 3?

12 THE COURT: Before the third amendment.

13 MR. KASOWITZ: I think it might have been ConVest.
14 ConVest.

15 There was a group at one point, then it was
16 ConVest and now it's Yucaipa. There is no --

17 THE COURT: ConVest sold to Yucaipa?

18 MR. KASOWITZ: Yes. And so this issue -- this is
19 a -- this is a -- this is a complete misinterpretation of
20 the credit agreement. Voting rights -- voting rights is
21 only mentioned one place in the whole agreement, Your
22 Honor. We have scanned the whole agreement, made it
23 searchable, and there's one place, that's 2--- that's
24 Section 2.22, and that talks about some of the
25 circumstances --

Robert Portas, RPR, CRR

1 THE COURT: Then what is 10.5A speaking of?

2 MR. KASOWITZ: 10.5 speaks to the circumstances in
3 which -- 10.5A speaks to the circumstances in which the
4 requisite lender may make certain determinations, like
5 amendments, like amending the term, "Term Loan Exposure,"
6 by itself, or amending other terms by itself, not
7 seeking -- not needing to seek the consent of other
8 parties. It's very specific as to --

9 THE COURT: Is there any limitation in the power
10 of the requisite lender after you get through with
11 Paragraph 10A?

12 MR. KASOWITZ: Sure. If you have -- if you
13 have -- if you have one of the situations that's listed
14 under 10B.

15 THE COURT: "Amend, modify, terminate or waive any
16 of the provisions of the credit documents."

17 MR. KASOWITZ: Unless --

18 THE COURT: You've got a free hand.

19 MR. KASOWITZ: No, Your Honor. Not if one of the
20 situations, one of the eleven situations in 10B is invoked,
21 that's --

22 THE COURT: That's what the plaintiff's trying to
23 invoke. They're saying, "My God, what you've done is
24 you've given yourself dictatorial powers with regard to
25 this loan."

Robert Portas, RPR, CRR

1 MR. KASOWITZ: Your Honor, the same supposed
2 dictatorial powers with respect to the loan were in the
3 possession of ConVest prior to the sale --

4 THE COURT: But ConVest did not have the advantage
5 of Amendments 3 and 4.

6 MR. KASOWITZ: Pardon me?

7 THE COURT: ConVest did not have the advantage of
8 Amendments 3 and 4. They had not acquired the equity
9 position.

10 MR. WARD: That's right.

11 MR. KASOWITZ: But there was nothing --

12 THE COURT: That makes all the difference in the
13 world.

14 MR. KASOWITZ: Your Honor, there's nothing in the
15 credit agreement which prohibited the acquisition of
16 equity. There is nothing. In fact, Your Honor,
17 Amendment 3 was very specific about saying that Yucaipa
18 could go --

19 THE COURT: Then why did you have Amendments 3 and
20 4? If there was nothing to stop your client from acquiring
21 the equity position and voting it, why Amendment -- why the
22 third amendment and why the fourth amendment? They're
23 meaningless.

24 MR. KASOWITZ: No, Your Honor, they weren't
25 meaningless. Because as part of the third, Yucaipa was
Robert Portas, RPR, CRR

1 able to acquire some debt.

2 THE COURT: Let's talk about res judicata and
3 collateral estoppel. On this issue you've lost already.
4 Go ahead.

5 MR. KASOWITZ: Well, Your Honor, there's a whole
6 list of -- there's a whole list of powers and authorities
7 that this --

8 THE COURT: Counselor, if you're not going to go
9 on to res judicata and collateral estoppel I'll take the
10 next motion.

11 MR. KASOWITZ: Res judicata, Your Honor: If it
12 is -- if it is the case that the agent, that CIT was acting
13 in a representative capacity, then there is a -- then there
14 is a -- an argument that the outcome of the Georgia
15 action --

16 THE COURT: What you're basically saying is that
17 the plaintiff or plaintiffs consented to the withdrawal of
18 that. Was it a defense that CIT was asserting in Georgia?

19 MR. KASOWITZ: I'm not saying that -- I'm saying
20 that they were bound by what CIT did.

21 THE COURT: CIT settled the case against your
22 client in Georgia; right?

23 MR. KASOWITZ: It did, Your Honor. And it was
24 authorized to do it. And there are issues of fact. There
25 are issues of fact as to that.

Robert Portas, RPR, CRR

1 THE COURT: Were there benefits that enured to the
2 plaintiff? Was the plaintiff a party to that settlement?
3 Other than -- How many principals did CIT represent as
4 agent?

5 MR. KASOWITZ: It represented --

6 THE COURT: All of them, right?

7 MR. KASOWITZ: Yes.

8 THE COURT: Okay.

9 MR. KASOWITZ: All the lenders. All the term loan
10 lenders, Your Honor.

11 THE COURT: But did the plaintiff have a claim in
12 that action?

13 MR. KASOWITZ: The plaintiff had a -- the
14 plaintiff was a defendant and it had counterclaims in that
15 action against Yucaipa. And the counterclaims --

16 THE COURT: You're saying no.

17 MR. WARD: No. They were not in that action.

18 MR. KASOWITZ: I'm sorry. Represented by CIT.

19 THE COURT: Wait, wait, wait.

20 MR. KASOWITZ: The plaintiffs --

21 THE COURT: Hold, Hold, hold.

22 CIT can be sued in a representative capacity, in
23 which case you saw whoever, A, B and C. By suing CIT you
24 make it known to A, B and C that they're being sued
25 through CIT.

Robert Portas, RPR, CRR

1 Were these plaintiffs aware that they were
2 parties to that action through CIT?

3 MR. KASOWITZ: They were aware that CIT was a
4 defendant and a counterclaim plaintiff in both --

5 THE COURT: My agent can be sued in Brooklyn in
6 some sort of a case, it doesn't involve me, doesn't -- I'm
7 not a claimant in that case or I'm not a defendant. I
8 don't care. It doesn't bind me. Is that what happened
9 here? Or was there a claim where a defense is being
10 asserted by these --

11 MR. KASOWITZ: Yes, but they admitted to being
12 bound, Your Honor. We have a raft of statements from the
13 clients, from their lawyers, sworn statements that they
14 admitted to being bound. We have statements from --

15 THE COURT: I don't understand how you can be
16 bound to something in which you're not interested. First
17 there has to be an interest in this litigation that was
18 going on in Georgia, and I know nothing about it.

19 MR. KASOWITZ: The litigation going on in Georgia,
20 Your Honor, is precisely the same as the litigation that is
21 going on here. It's precisely the same. It was a claim as
22 to whether or not the fourth amendment was valid. The --
23 the -- the plaintiffs here were -- the case went on for two
24 years, Your Honor. The plaintiffs here --

25 THE COURT: Who was the plaintiff in the Georgia
 Robert Portas, RPR, CRR

1 action?

2 MR. KASOWITZ: The plaintiffs in the Georgia
3 action were Yucaipa.

4 THE COURT: Okay.

5 MR. KASOWITZ: They sued CIT --

6 THE COURT: For declaratory judgment?

7 MR. KASOWITZ: They sued CIT for declaratory
8 judgment, correct. They sued CIT both in its own
9 individual -- I'm sorry, it's Yucaipa and Allied, Your
10 Honor. And they sued CIT, quote, as administrative agent.
11 Administrative agent for these lenders, Your Honor, who
12 include the plaintiffs here. The lenders -- the case went
13 on for two years.

14 THE COURT: Hold the phone. Just -- I want to go
15 slower.

16 Procedurally, how does that satisfy the
17 plaintiff's rights to be made aware of this proceeding
18 that you say affects their rights and obligations under
19 this agreement?

20 MR. KASOWITZ: They were aware of the proceeding,
21 Your Honor.

22 THE COURT: How? Were they served with papers?

23 MR. KASOWITZ: They weren't served with papers.
24 They were knowledgeable about it. They were deposed in the
25 proceeding.

Robert Portas, RPR, CRR

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THE COURT: Okay.

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MR. KASOWITZ: The plaintiffs were deposed in the proceeding, they were knowledgeable about the proceeding, they consulted with Yucaipa about the proceeding. There was no doubt about that. There are no -- there is clear that they had open knowledge about it.

THE COURT: What was the -- what was the claim that you were asserted against these plaintiffs in that action?

MR. KASOWITZ: The claim was that the fourth -- the claim was that the fourth amendment was valid, Your Honor. And so -- and there was a declaratory judgment action. These plaintiffs knew about it, were familiar with it, were deposed in it. And, of course --

THE COURT: I don't understand. Why weren't they named? This is what really puzzles me.

MR. KASOWITZ: Because CIT --

THE COURT: You didn't even name CIT as agent for the plaintiffs? You just sued CIT?

MR. KASOWITZ: We sued CIT in their representative capacity as administrative agent for all of -- for all of the lenders. Of course, Your Honor. And a declaration -- Your Honor, a declaration as to the validity of that fourth amendment would have impacted, obviously, on these plaintiffs, one way or the other. If it was upheld as Robert Portas, RPR, CRR

1 being valid, then it was valid.

2 THE COURT: Plaintiffs hopping off the seat. He
3 wants to speak.

4 MR. WARD: I can resolve the res judicata issue in
5 two minutes, Your Honor.

6 THE COURT: You got it.

7 MR. WARD: Would you please look at Grant
8 Affidavit, Exhibit I. That is the settlement agreement
9 that Mr. Kasowitz' clients. The Grant Affidavit is Yucaipa
10 papers, Your Honor, Exhibit I. That is the settlement
11 agreement in the Georgia action.

12 In addition, as Your Honor's doing that, the
13 caption of the Georgia action only sues CIT itself, it
14 doesn't say "As agents," and the paragraphs therein don't
15 say anything about agent. But, most importantly, Your
16 Honor, if you are on Exhibit I --

17 THE COURT: Yes.

18 MR. WARD: -- please go to Page 5.

19 And, Your Honor, you may have to backtrack a
20 little and see that that Paragraph 1 than you're looking
21 at which starts at Page 2 says, "Mutual general releases:
22 This is the settlement agreement of the Georgia action
23 between Yucaipa and Allied as plaintiffs and CIT as
24 defendant."

25 Look at Paragraph 1B, which is on Page 5, about
Robert Portas, RPR, CRR

1 ten lines down on that Page 5 --

2 THE COURT: Right.

3 MR. WARD: -- where it starts saying, "Amended
4 through the fourth amendment." Do you see that line, Your
5 Honor? "Amended"? The sentence right after in that line.
6 "This limited release." You see that, Your Honor?

7 THE COURT: Yes.

8 MR. WARD: "This limited release is made solely by
9 CIT and its personal representatives, successors and
10 assigns on its own behalf and not in a representative
11 capacity on behalf of any other persons and does not
12 constitute a release by any other person." It could not
13 have bound my client.

14 But it gets even better. Look at Paragraph 1D,
15 Your Honor, on the next page. Paragraph 1D: "For the
16 avoidance of doubt, and notwithstanding anything herein
17 to the contrary, nothing in this agreement shall release
18 any claims, actions, causes of actions, demands for
19 damages, costs," et cetera, et cetera, down five lines,
20 "whatsoever belonging to any person or entity other than
21 the parties to this agreement and each of their personal
22 representatives, successors and assigns and ConVest."

23 The parties to this agreement, Your Honor, just
24 look at the page: Yucaipa, Allied, CIT. Not my clients.
25 Even if CIT did represent my clients, which they did not,
Robert Portas, RPR, CRR

1 they settled on their own behalf.

2 MR. KASOWITZ: Your Honor, there was -- there
3 was -- merely because releases were not obtained does not
4 resolve that issue. The settlement was -- the settlement
5 was for the purpose of resolving the case in both the
6 individual capacity --

7 THE COURT: Wasn't the settlement papered up?

8 MR. KASOWITZ: The settlement --

9 MR. WARD: That's it.

10 MR. KASOWITZ: The settlement was papered up.
11 Releases were given, but there were other claims,
12 potentially, that may have existed between Yucaipa and
13 between these plaintiffs.

14 THE COURT: And apparently they weren't resolved.

15 MR. KASOWITZ: Pardon me?

16 THE COURT: Apparently they weren't resolved.

17 MR. KASOWITZ: There are other claims that weren't
18 resolved, which is part of the reason --

19 THE COURT: Look, res judicata or collateral
20 estoppel requires either a judgment or a settlement that
21 covers the claim. Do you have a judgment? No. Do you
22 have a settlement?

23 MR. KASOWITZ: Yes.

24 THE COURT: Apparently not.

25 MR. KASOWITZ: We do have a consent judgment that
Robert Portas, RPR, CRR

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covers this claim.

THE COURT: No, but it says it doesn't. It says, "This limited release is made solely by CIT and on its own behalf, not in a representative capacity." Your whole argument was that you were suing CIT in a representative capacity.

MR. KASOWITZ: We were, Your Honor. And just because the release was not --

THE COURT: Plaintiff, plaintiff, plaintiff...?

MR. WARD: Yes, Your Honor?

THE COURT: Congratulations.

MR. WARD: Thank you.

THE COURT: You won.

MR. WARD: Thank you.

MR. HARRIS: Thank you, Your Honor.

THE COURT: You'll get a written decision out of this one.

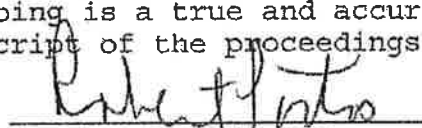
MR. WARD: Thank you, Your Honor.

THE COURT: Thank you.

(Whereupon, the above-captioned proceedings were concluded.)

oOo

(It is hereby certified that the foregoing is a true and accurate transcript of the proceedings.)


ROBERT PORTAS, RPR, CRR

Robert Portas, Senior Court Reporter
RPR, CRR

Appendix “B”

Schulte Roth & Zabel LLP

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December 13, 2012

VIA HAND DELIVERY

The Honorable Christopher Sontchi
United States Bankruptcy Judge
United States Bankruptcy Court for the District of Delaware
824 North Market Street, 5th Floor
Wilmington, DE 19801

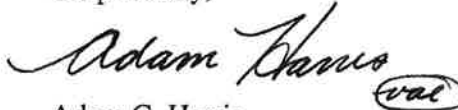
Re: Allied Systems Holdings, Inc. et al., Debtors Case No. 12-11564 (CSS)

Dear Judge Sontchi:

Along with Landis Rath & Cobb LLP, we are counsel to BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners. L.P. (the "Petitioning Creditors"). In furtherance of Your Honor's request made at the conclusion of the November 26th hearing, we write to inform you of certain developments in the case entitled *BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P. v. Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP*, Index No. 650150/2012 pending in the New York State Supreme Court before Justice Ramos.

As you will recall, on November 19th, at the conclusion of oral argument Justice Ramos granted summary judgment in favor of the Petitioning Creditors and informed the parties that he would prepare a written decision. On December 5, 2012, the Yucaipa defendants sent a letter to Justice Ramos advocating that any order entered by Justice Ramos enforce the severability provision of the purported Fourth Amendment and arguing against nullification of the purported Fourth Amendment in its entirety. The Petitioning Creditors' filed a response to the letter on December 10, 2012. Copies of the Yucaipa letter and the Petitioning Creditors' response are attached.

Respectfully,

A handwritten signature in cursive script that reads "Adam Harris". To the right of the signature is a small, circular stamp containing the word "val" in a stylized font.

Adam C. Harris

Enclosures

The Honorable Christopher Sontchi
December 13, 2012
Page 2

cc: Jeffrey Kelley, Esq. (*via email*)
Michael Burke, Esq. (*via email*)
Robert Klyman, Esq. (*via email*)
David Buchbinder, Esq. (*via email*)
Mark Collins, Esq. (*via email*)
Christopher Samis, Esq. (*via email*)
Adam Landis, Esq. (*via email*)

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MARC E. KASOWITZ
DIRECT DIAL: 212-506-1710
MKASOWITZ@KASOWITZ.COM

December 5, 2012

BY HAND

The Honorable Charles E. Ramos
New York County Courthouse
60 Centre Street, Room 691
New York, NY 10007

Re: *BCDM Opportunity Fund II, LP, et al. v. Yucaipa American Alliance Fund I, LP, et al.*, (Index. No. 650150/2012)

Dear Justice Ramos:

We are counsel to defendants in the above-referenced action. At the conclusion of the hearing (the "hearing") held on Monday, November 19, on plaintiffs' motion for summary judgment (the "motion"), Your Honor indicated an intention to grant the motion and stated that the Court will be issuing a written decision. Transcript of November 17, 2012 hearing ("Tr.") at 36.¹ We write to address the scope of the decision and order Your Honor intends to enter in this case.²

Plaintiffs' complaint and motion seek a declaration that the Fourth Amendment "is null and void, ineffective, and not binding" and "that Yucaipa is not Requisite Lenders under the Agreement." Complaint ¶¶ 60;

¹ Capitalized terms not defined herein have the meanings set forth in the Defendants' Memorandum of Law in Opposition to Plaintiffs' Motion for Summary Judgment, dated September 26, 2012 (the "Opposition").

² Defendants continue to assert, respectfully, that plaintiffs are not entitled to summary judgment. Nothing in this letter should be construed as an admission or acquiescence concerning plaintiffs' arguments or that plaintiffs are entitled to a judgment of any kind in their favor.

The Honorable Charles E. Ramos
December 5, 2012
Page 2

Plaintiffs' Reply Br. at 15. While defendants dispute that plaintiffs are entitled to any judgment in their favor, in any event the Court should not invalidate the entire Fourth Amendment and should instead limit any decision and order to a declaration invalidating the Fourth Amendment's change to "Term Loan Exposure" and declaring "that Yucaipa is not Requisite Lenders."

The Fourth Amendment expressly provides that if there is a legal infirmity in part of the Fourth Amendment, the remainder will remain valid and enforceable:

"In case any provision in or obligation hereunder shall be invalid, illegal or unenforceable. . . the validity, legality and enforceability of the remaining provisions or obligations. . . shall not. . . be affected or impaired thereby."³

New York courts routinely enforce such severability clauses. See Christian v. Christian, 42 N.Y.2d 63, 73 (1977); Sheridan v. Sheridan, 202 A.D.2d 749, 752 (3d Dep't 1994).

As set forth in defendants' Opposition (at 23 - 25), there is no basis to invalidate the entirety of the Fourth Amendment. A wholesale invalidation is not supported by the motion, would violate the severability clause of the Fourth Amendment, and would improperly void provisions of the Fourth Amendment that have nothing to do with Requisite Lender status and that plaintiffs have not contended were passed in violation of the Credit Agreement.⁴

As noted at the hearing, under Section 10.5(b)(ix) of the Credit Agreement, an amendment that changes the definition of "Requisite Lenders" is a change requiring consent of all affected lenders. Plaintiffs argued in their papers, and at the hearing Your Honor accepted their argument, that the Fourth Amendment's change to the term "Term Loan

³ Fourth Amendment, § 6.02.

⁴ This issue was raised in the Opposition but was not addressed at the hearing. See Opposition at 23-25.

The Honorable Charles E. Ramos
December 5, 2012
Page 3

Exposure” effectively amended the definition of “Requisite Lender,” and that change therefore required the consent of all lenders including plaintiffs. However, plaintiffs have never contended -- much less proven as a matter of law -- that any other provisions of the Fourth Amendment effected a change to the definition of Requisite Lender, or otherwise required the consent of all lenders for the passage of those provisions. Accordingly, there is no basis in the Credit Agreement, the Fourth Amendment, or in plaintiffs’ complaint or their motion, for the Court to grant declaratory relief invalidating the entirety of the Fourth Amendment.

Indeed, during the hearing, and in their reply papers, plaintiffs *conceded* that Yucaipa is entitled to hold Allied’s first lien debt so long as such debt is non-voting or, as plaintiffs characterized it, “neutered” debt. See Tr. at 18 – 19; see also Reply Br. at 7-9. Thus, severing the Fourth Amendment’s change to the definition of Term Loan Exposure would -- under the argument advanced by plaintiffs -- leave Yucaipa holding such “neutered,” non-voting debt without impairing any of the other changes embodied in the ten-page Fourth Amendment.

Accordingly, in Your Honor’s written decision and order, we submit that the Court should sever and declare invalid *only* the amendment to the definition of Term Loan Exposure, and should declare only that “Yucaipa is not Requisite Lenders,” while leaving the remainder of the Fourth Amendment intact.

Respectfully,



Marc E. Kasowitz

cc: Robert Ward, Esq. (By Hand)

Schulte Roth & Zabel LLP

919 Third Avenue
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212.756.2000
212.593.5955 fax

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Robert J. Ward
212.756.2166

Writer's E-mail Address
Robert.Ward@srz.com

December 10, 2012

BY HAND

The Honorable Charles E. Ramos
New York County Courthouse
Commercial Division - Part 53
60 Centre Street, Room 691
New York, NY 10007

Re: *BDCM Opportunity Fund II, LP, et al. v. Yucaipa American Alliance Fund I, LP, et al.*, (Index No. 650150/2012)

Dear Justice Ramos:

We represent Plaintiffs in the above-referenced action and write in response to the letter from Defendants' counsel, dated December 5, 2012 ("Defendants' Letter"). Defendants' Letter is in direct violation of this Court's rules. Part 53 Practice Rule 17 provides that "**No Party shall send a letter to Chambers** without first calling the adversary and having a 'meet and confer' on the issue. If the parties are unable to resolve the issue, call Chambers for a conference." (Emphasis in original). Defendants never called us to meet and confer; we only learned of Defendants' Letter when it was filed with the Court. Defendants also failed to arrange for a conference with Chambers as required under the Rule.

Not only did Defendants clearly fail to follow the rules of this Court, but there is no justification for their letter. There was no issue left open at the close of the November 19 oral argument of Plaintiffs' summary judgment motion. Defendants fail to cite to any new facts or issues to justify the need for a letter to this Court, because there are none. Every substantive paragraph of Defendants' Letter cites either a document (brief or exhibit) already filed with the Court or the November 19 transcript. Further, the Court did not request any post argument submissions from the parties nor did either of the parties ask for such.

The issue of severability in connection with the Purported Fourth Amendment¹ was briefed by Defendants in their opposition brief and responded to by Plaintiffs in their reply brief. Defendants were certainly able to address the issue of severability during the oral argument before the Court but chose not to do so. Defendants' Letter is nothing more than an improper rehash of the argument on severability which Defendants already made in their opposition brief.

At the November 19, 2012 oral argument, Your Honor agreed with Plaintiffs that Defendants utilized the Purported Fourth Amendment to violate the restrictions contained in the Credit Agreement by effectively changing the definition of "Requisite Lenders" so that Defendants, the controlling shareholder of Allied, could simultaneously also become Requisite Lenders, with unfettered control over the other Lenders.

As is clear from Plaintiffs' summary judgment papers, **the sole purpose** of the entire Purported Fourth Amendment was to systematically remove each of the existing restrictions that prevented Defendants from exerting influence on the Lenders and becoming the Requisite Lenders. Thus, there is nothing severable in the Purported Fourth Amendment. While Defendants argue that a "wholesale invalidation" of the Purported Fourth Amendment "would improperly void provisions of the Fourth Amendment that have nothing to do with Requisite Lender status . . ." (Defendants' Letter at 2), this is baseless because the Purported Fourth Amendment is a wholly integrated agreement that had but one goal: handing Requisite Lender status to Defendants. (See Plaintiffs' Opening Brief at 12-13.) See *Rotblut v. Conn. Gen. Life Ins. Co.*, 226 A.D.2d 617, 617 (2d Dep't 1996) ("As a general rule, a contract is entire when by its terms, nature and purpose, it contemplates and intends that each and all of its parts and the consideration therefore shall be common each to the other and interdependent").

The New York Court of Appeals has instructed: "whether the provisions of a contract are severable depends largely upon the intent of the parties as reflected in the language they employ and the particular circumstantial milieu in which the agreement came into being." *Matter of Wilson's Estate*, 50 N.Y.2d 59, 65 (1980). As Plaintiffs have shown, the circumstances leading to the creation of the Purported Fourth Amendment establish that Defendants' intent therein was to remove all the restrictions to their becoming Requisite Lender, which purpose clearly violated the provisions of the Credit Agreement.

This is not the situation where a severability clause typically applies, where a mistake in some language in one clause may doom an otherwise benign agreement unless the Court severs that clause. Here, *every* substantive provision of the Purported Fourth Amendment is part of a single forbidden objective: to give Defendants dictatorial power over the debt of Allied in contravention of the Credit Agreement.

Defendants' Letter cites two inapposite cases for the proposition that the severability clause should save certain of the provisions of the Purported Fourth Amendment, although they cannot and do not cite to any provision that is not part of the same scheme to "roll

¹ Capitalized terms not defined herein have the meanings set forth in Plaintiffs' Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment, dated August 27, 2012 ("Plaintiffs' Opening Brief").

The Honorable Charles E. Ramos
December 10, 2012
Page 3

back" the restrictions placed on them in the Third Amendment where Defendants were first allowed to purchase debt. Neither of these cases involves construction of a commercial contract. Instead, both of Defendants' cases are matrimonial cases interpreting separation agreements, where clearly there is a strong public policy interest in not invalidating a whole contract because of one faulty provision. These same policy concerns obviously do not apply in a commercial contract negotiated, or more appropriately here, orchestrated, by sophisticated financial parties.

Plaintiffs' Motion for Summary Judgment is fully submitted. At the November 19, 2012 oral argument, Your Honor concluded that the Purported Fourth Amendment violated the existing restrictions in the Credit Agreement. We respectfully submit that the Purported Fourth Amendment should be declared null and void in its entirety.

Respectfully,



Robert J. Ward

cc: Marc Kasowitz, Esq.

Appendix “C”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: ALLIED SYSTEMS HOLDINGS, INC., et al.,¹ Debtors.	Chapter 11 Case No. 12-11564 (CSS) (Jointly Administered) Re: Docket Nos. 173, 258, 307, 372, 373 & _____
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**ORDER PURSUANT TO 11 U.S.C. §§ 327 AND 328, FED. R. BANKR. P. 2014 AND 2016
AND DEL. BANKR. L.R. 2014-1 AND 2016-1 FOR AN ORDER
AUTHORIZING THE RETENTION AND EMPLOYMENT OF ROTHSCHILD INC.
AS FINANCIAL ADVISOR AND INVESTMENT BANKER
FOR THE DEBTORS NUNC PRO TUNC TO THE PETITION DATE**

This matter coming before the Court on the Debtors' *Application Pursuant to 11 U.S.C. §§ 327 and 328, Fed. R. Bankr. P. 2014 and 2016 and Del. Bankr. L.R. 2014-1 and 2016-1 for an Order Authorizing the Retention and Employment of Rothschild* (the "**Application**")² filed by the above-captioned debtors (the "**Debtors**"); the Court having reviewed the Application, the Snyder Declaration and having considered the statements of counsel and the evidence adduced with respect to the Application at a hearing before the Court (the "**Hearing**"); and the Objections of the Official Committee of Unsecured Creditors (the "**Committee**") [Docket No. 258] and Petitioning Creditors BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1, Ltd. and Spectrum Investment Partners, L.P. (the "**Petitioning Creditors**") [Docket No. 307] having been resolved

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (87568828); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CF Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² Initially capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application.

by consent in accordance with the terms of this Order, and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) venue is proper in this district pursuant to 28 U.S.C. § 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), (iv) the terms and conditions of Rothschild's employment, including but not limited to the Fee and Expense Structure set forth in the Engagement Letter and summarized herein, are reasonable as required by section 328(a) of the Bankruptcy Code and (v) notice of the Application and the Hearing was sufficient under the circumstances; after due deliberation, the Court having determined that the relief requested in the Application is necessary and essential for the Debtors' reorganization and such relief is in the best interests of the Debtors, their estates and their creditors; and good and sufficient cause having been shown, it is

HEREBY ORDERED THAT:

1. The Application is **GRANTED** as set forth herein, *nunc pro tunc* to the Petition Date.
2. The Debtors are authorized, pursuant to sections 327 and 328(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, to employ and retain Rothschild as their financial advisor and investment banker in accordance with the terms and conditions set forth in the Engagement Letter, effective *nunc pro tunc* to the Petition Date, and to pay fees and reimburse expenses to Rothschild on the terms and times specified in the Engagement Letter.
3. The terms of the Engagement Letter, attached hereto as Exhibit 1, are approved in all respects except as limited or modified herein.
4. Section 4(b) of the Engagement Letter shall be amended and restated as follows:
 - (b) A fee (the "Completion Fee") equal to one of the following:

- (i) \$1,750,000, payable in cash immediately upon the earlier of the closing or consummation of the sale, transfer or other disposition to [redacted] of at least a majority of the Company's equity interests (calculated on a voting or economic basis) or assets pursuant to §363 of the Bankruptcy Code or otherwise pursuant to a Plan;
- (ii) \$2,000,000, payable in cash immediately upon the earlier of (a) the consummation of a Plan that is confirmed at an uncontested confirmation hearing and (b) the closing of a sale, transfer or other disposition of at least a majority of the Company's equity interests (calculated on a voting or economic basis) or assets to any of the Company's first lien lenders pursuant to §363 of the Bankruptcy Code so long as any such transaction under §363 of the Bankruptcy Code is supported by or consented to by at least 78% of the principal amount of claims held by the Company's first lien lenders (a "First Lien Supermajority");
- (iii) an amount not more than \$2,000,000, to be determined and agreed promptly and in good faith by the Company, Rothschild and a First Lien Supermajority, payable in cash immediately upon the closing of a sale, transfer or other disposition of at least a majority of the Company's equity interests (calculated on a voting or economic basis) or assets to any of the Company's first lien lenders pursuant to §363 of the Bankruptcy Code that is not supported by or consented to by a First Lien Supermajority, *provided*, for the avoidance of doubt, that a Completion Fee shall be due to Rothschild upon the conditions described in this clause (iii) and *provided further*, that a lack of affirmative support by a First Lien Supermajority shall not be on account of the terms of this Section 4(b); or
- (iv) if the Completion Fee is not earned pursuant to any of clauses (i), (ii) or (iii) above, \$2,500,000, payable in cash immediately upon the earlier of the closing or consummation, as applicable, of a Plan or other Transaction not described in any of clauses (i), (ii) or (iii) above.

5. The last sentence of Section 4(c) of the Engagement Letter shall be amended by adding the words "or affiliates of any of the foregoing" to the end thereof.

6. Upon request, Allied, subject to the exercise of its fiduciary duties and its duties pursuant to section 1107(a) of the Bankruptcy Code, will (i) provide to the Petitioning Creditors and the Committee copies of any written proposals, expressions of interest or similar communications the Company receives from any party relating to any proposed Transaction (subject to any confidentiality obligations owed to such parties), and (ii) make Rothschild available to Petitioning Creditors and the Committee for calls (to include Allied) with reasonable frequency in order to update Petitioning Creditors and the Committee concerning such proposed Transactions. Allied shall provide to the Petitioning Creditors and the Committee all information regarding any such proposed Transaction made available to Yucaipa³ or any of the Company's directors affiliated with Yucaipa. All such information provided to (i) the Petitioning Creditors shall be subject to the Confidentiality Agreements between Allied and the Petitioning Creditors dated June 6, 2012 and (ii) the Committee shall be subject to the Confidentiality Agreements between Allied and the Committee. This paragraph is without prejudice to any rights the Petitioning Creditors or the Committee may have to seek information from Allied.

7. All of Rothschild's compensation set forth in the Engagement Letter, including, without limitation, the Fee and Expense Structure set forth in the Engagement Letter, is approved pursuant to section 328(a) of the Bankruptcy Code and Rothschild shall be compensated and reimbursed pursuant to section 328(a) of the Bankruptcy Code in accordance with the terms of the Engagement Letter, subject to the procedures set forth in the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable orders of this Court.

³ "Yucaipa" is Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund, LLP.

8. Notwithstanding anything to the contrary contained herein, Rothschild shall be paid, during the pendency of these chapter 11 cases, only upon appropriate application in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any interim compensation procedures order entered in these chapter 11 cases.

9. None of the fees payable to Rothschild shall constitute a "bonus" or fee enhancement under applicable law.

10. Notwithstanding any provision to the contrary in this order, the U.S. Trustee shall have the right to object to Rothschild's request(s) for interim and final compensation and reimbursement, including the Completion Fee, based on the reasonableness standard provided in section 330 of the Bankruptcy Code, rather than section 328(a) of the Bankruptcy Code. This order and the record relating to the Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of Rothschild's fees under the standard set forth in the preceding sentence. Accordingly, nothing in this order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Rothschild's fees.

11. Rothschild shall include in its fee applications, among other things, time records setting forth, in a summary format, a description of the services rendered by each professional, and the amount of time spent on each date by each such individual in rendering services on behalf of the Debtors in half-hour increments, but Rothschild shall be excused from keeping time in tenth-hour increments.

12. Rothschild shall file fee applications for interim and final allowance of compensation and reimbursement of expenses pursuant to the procedures set forth in sections 330

and 331 of the Bankruptcy Code; provided, however, the fee applications filed by Rothschild shall be subject to review only pursuant to the standard of review set forth in section 328 of the Bankruptcy Code and not subject to the standard of review set forth in section 330 of the Bankruptcy Code, except as otherwise expressly set forth herein.

13. The Debtors shall be bound by the indemnification, contribution, reimbursement, exculpation and other provisions of the Engagement Letter and will indemnify and hold harmless Rothschild and the other Indemnified Parties, pursuant to the Engagement Letter, subject, during the pendency of these chapter 11 cases, to the following:

- (a) Rothschild shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Letter for services, unless such services and the indemnification, contribution or reimbursement therefor are approved by the Court;
- (b) The Debtors shall have no obligation to indemnify Rothschild, or provide contribution or reimbursement to Rothschild, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from Rothschild's gross negligence, fraud, willful misconduct, breach of fiduciary duty, if any, bad faith or self-dealing; (ii) for a contractual dispute in which the Debtors allege the breach of Rothschild's contractual obligations, unless the Court determines that indemnification, contribution or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing, to be a claim or expense for which Rothschild should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter as modified by this Order; and
- (c) If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal) and (ii) the entry of an order closing these chapter 11 cases, Rothschild believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution and/or reimbursement obligations under the Engagement Letter (as modified by this Order), including, without limitation, the advancement of defense costs, Rothschild must file an application therefor in this Court, and the Debtors may not pay any such amounts to Rothschild before the entry of an order by this Court approving the

payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by Rothschild for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify Rothschild. All parties in interest shall retain the right to object to any demand by Rothschild for indemnification, contribution or reimbursement.

14. Exhibit A of the Engagement Letter is modified (i) by deleting the last sentence from the first paragraph, (ii) by deleting the last two sentences of the fourth paragraph and (iii) by deleting the following clause from the fourth paragraph: "provided that, in no event shall the aggregate contribution of all such Indemnified Parties exceed the amount of fees received by Rothschild under this Agreement."

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

16. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry, notwithstanding the possible applicability of Bankruptcy Rule 6004, 7062 or 9014.

17. The relief granted herein shall be binding upon any chapter 11 trustee appointed in these chapter 11 cases, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of these chapter 11 cases to cases under chapter 7.

18. To the extent that this Order is inconsistent with the Engagement Letter, the terms of this Order shall govern.

19. The Court shall (i) retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order and (ii) have exclusive jurisdiction, during the pendency of these chapter 11 cases, to hear and determine all matters arising from or related to the implementation of this Order.

20. Nothing contained herein shall modify or affect the rights of the Committee to under the Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay (the “Final DIP Order”) [Docket No. ___] to file a complaint pursuant to Bankruptcy Rule 7001, or assert a setoff, claim, offset or defense that seeks to invalidate, subordinate, recharacterize or otherwise challenge any of the Prepetition Lender Liens, Prepetition Secured Claims or the actions taken by any Prepetition Secured Party (as such terms are defined and used in the Final DIP Order) in its capacity as such.

Dated: 10/16, 2012
Wilmington, Delaware



THE HONORABLE CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

As of June 3, 2012

Mark Gendregske
President and Chief Executive Officer
Allied Systems Holdings, Inc.
2302 Parklake Drive, Building 15, Suite 600
Atlanta, GA 30345



Dear Mr. Gendregske:

This letter (the "Agreement") will confirm the terms and conditions of the agreement among Allied Systems Holdings, Inc., Allied Systems, Ltd. (L.P.) and Allied Automotive Group, Inc. (collectively with their other direct and indirect subsidiaries, the "Company") and Rothschild Inc. ("Rothschild") regarding the retention of Rothschild as financial advisor and investment banker to the Company in connection with a possible restructuring of its businesses and/or certain liabilities of the Company.

Section 1 Services to be Rendered. In connection with the formulation, analysis and implementation of various options for a restructuring, reorganization or other strategic alternative relating to the Company, whether pursuant to a Transaction (as defined below) or any series or combination of Transactions, Rothschild will perform the following services to the extent reasonably requested by the Company and appropriate:

- (a) identify and/or initiate potential Transactions;
- (b) review and analyze the Company's financial strategies;
- (c) review and analyze the business plans and financial projections prepared by the Company including, but not limited to, testing assumptions and comparing those assumptions to historical Company and industry trends;
- (d) evaluate the Company's debt capacity in light of its projected cash flows and assist in the determination of an appropriate capital structure for the Company;
- (e) assist the Company and its other professionals in reviewing the terms of any proposed Transaction, in responding thereto and, if directed, in evaluating alternative proposals for a Transaction, whether in connection with a Plan (as defined below) or otherwise;
- (f) determine a range of values for the Company and any securities that the Company offers or proposes to offer in connection with a Transaction;
- (g) advise the Company on the risks and benefits of considering a Transaction with respect to the Company's intermediate and long-term business prospects and strategic alternatives to maximize the business enterprise value of the Company, whether pursuant to a Plan or otherwise;
- (h) review and analyze any proposals the Company receives from third parties in connection with a Transaction;

Rothschild Inc.
1251 Avenue of the Americas
New York, NY 10020
www.rothschild.com

Todd R. Snyder
Co-Chair of North America Debt Advisory and Restructuring
Telephone 212 403-5246
Facsimile 646 924-3553

(i) solicit and advise the Company with respect to any proposals for debtor-in-possession financing, as appropriate;

(j) assist or participate in negotiations with the parties in interest, including, without limitation, any current or prospective creditors of, holders of equity in, or claimants against the Company and/or their respective representatives in connection with a Transaction;

(k) advise the Company with respect to, and attend, meetings of the Company's Board of Directors, creditor groups, official constituencies and other interested parties, as necessary;

(l) in the event the Company determines to commence, or consent to the commencement of, Chapter 11 cases, and if requested by the Company, participate in hearings before the Bankruptcy Court in which such cases are commenced (the "Bankruptcy Court") and provide relevant testimony with respect to the matters described herein and issues arising in connection with any proposed Plan (as defined below); and

(m) render such other financial advisory and investment banking services as may be agreed upon by Rothschild and the Company.

As used herein, the term "Transaction" shall mean any one or more of the following, whether pursuant to a plan of reorganization (a "Plan") confirmed in connection with any case or cases commenced by or against the Company, any of its subsidiaries, any of its affiliates or any combination thereof, whether individually or on a consolidated basis (a "Bankruptcy Case"), under Title 11 of the United States Code §§ 101 et seq. (the "Bankruptcy Code") or otherwise: (a) any transaction or series of transactions that effects material amendments to or other material changes in any of the Company's material outstanding indebtedness, including any exchange, repurchase or forgiveness of any portion of the Company's material indebtedness; (b) pursuant to §363 of the Bankruptcy Code or otherwise (i) any merger, consolidation, reorganization, recapitalization, financing, refinancing, business combination or other transaction pursuant to which the Company (or control thereof) is acquired by, or combined with, any person, group of persons, partnership, corporation or other entity (an "Acquirer") or (ii) any acquisition, directly or indirectly, by one or more Acquirers (or by one or more persons acting together with an Acquirer pursuant to a written agreement or otherwise), whether in a single transaction, multiple transactions or a series of transactions, of (x) other than in the ordinary course of business, 50% or more of the assets or operations of the Company (measured by reference to the book value reflected in the Company's then most recent financial statements) or (y) any outstanding or newly-issued shares of the Company's capital stock or any securities convertible into, or options, warrants or other rights to acquire such capital stock or other equity securities of the Company, for the purpose of effecting a recapitalization or change of control of the Company; (c) any restructuring, reorganization, refinancing or similar transaction, whether or not pursuant to a Plan; (d) other than in the ordinary course of business, any acquisition, directly or indirectly, by the Company, whether in a single transaction, multiple transactions or a series of transactions, of any outstanding or newly-issued shares of another person's capital stock or any securities convertible into, or options, warrants or other rights to acquire such capital stock or other equity securities of another person, for the purpose of effecting a recapitalization or change of control of the other person; (e) any transaction similar to any of the foregoing. Notwithstanding any other provision of this Agreement, the term "Transaction" as used herein shall include any transaction described above in which consideration

includes, in whole or in part, a credit or other bid involving consideration other than cash, such as pre- and post-petition loans, other outstanding pre- and post-petition indebtedness or other non-cash consideration.

In performing its services pursuant to this Agreement, and notwithstanding anything to the contrary herein, Rothschild is not assuming any responsibility for the Company's decision to pursue (or not to pursue) any business strategy or to effect (or not to effect) any Transaction or other transaction. Rothschild shall not have any obligation or responsibility to provide accounting, audit, "crisis management" or business consultant services to the Company, and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements.

Section 2 Information Provided by the Company.

(a) The Company will cooperate with Rothschild and furnish to, or cause to be furnished to, Rothschild any and all information as Rothschild reasonably deems appropriate to enable Rothschild to render services hereunder (all such information being the "Information"). The Company recognizes and confirms that Rothschild (i) will use and rely solely on the Information and on information available from generally recognized public sources in performing the services contemplated by this Agreement without having assumed any obligation to verify independently the same; (ii) does not assume responsibility for the accuracy or completeness of the Information and such other information, and (iii) will not act in the official capacity of an appraiser of specific assets of the Company or any other party. The Company confirms that the information to be furnished by the Company, when delivered, to the best of its knowledge will be true and correct in all material respects, will be prepared in good faith, and will not contain any material misstatement of fact or omit to state any material fact. The Company will promptly notify Rothschild if it learns of any material inaccuracy or misstatement in, or material omission from, any information theretofore delivered to Rothschild.

(b) The Company acknowledges that in the course of this engagement it may be necessary for Rothschild and the Company to communicate electronically. The Company further acknowledges that although Rothschild will use commercially reasonable procedures to check for the most commonly known viruses, the electronic transmission of information cannot be guaranteed to be secure or error-free. Furthermore such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, the Company agrees that Rothschild shall have no liability to the Company (except as a result of Rothschild's willful misconduct, fraud or gross negligence) with respect to any error or omission arising from or in connection with: (i) the electronic communication of information to the Company; or (ii) the Company's reliance on such information.

Section 3 Application for Retention of Rothschild. In the event the Company commences or consents to the commencement of a Bankruptcy Case, the Company shall apply promptly to the Bankruptcy Court pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code, Rule 2014 of the Federal Rules of Bankruptcy Procedure, applicable local rules and procedural orders of the Bankruptcy Court and procedural guidelines established by the Office of the United States Trustee, for approval of (a) this Agreement and (b) Rothschild's retention by the Company under the terms of this Agreement (including, without limitation, the reimbursement of fees,

disbursements and other charges of Rothschild's counsel pursuant to Section 6 hereof without the requirement that the retention of such counsel be approved by the Bankruptcy Court), *nunc pro tunc* to the date the Chapter 11 case was commenced, and shall use its reasonable best efforts to obtain Bankruptcy Court authorization thereof. The Company shall use its reasonable best efforts to obtain such Bankruptcy Court approval and authorization subject only to the subsequent review by the Bankruptcy Court under the standard of review provided in Section 328(a) of the Bankruptcy Code, and not subject to the standard of review set forth in Section 330 of the Bankruptcy Code. The Company shall supply Rothschild and its counsel with a draft of such application and any proposed order authorizing Rothschild's retention sufficiently in advance of the filing of such application and proposed order to enable Rothschild and its counsel to review and comment thereon. Rothschild shall have no obligation to provide any services under this Agreement unless Rothschild's retention under the terms of this Agreement is approved in the manner set forth above by a final order of the Bankruptcy Court no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which order is reasonably acceptable to Rothschild in all respects.

Rothschild acknowledges that in the event that the Bankruptcy Court approves its retention by the Company, pursuant to the application process described in this Section 3, payment of Rothschild's fees and expenses shall be subject to (i) the jurisdiction and approval of the Bankruptcy Court under Section 328(a) of the Bankruptcy Code and the order approving Rothschild's retention, (ii) any applicable fee and expense guidelines and/or orders and (iii) any requirements governing interim and final fee applications. In the event that Rothschild's engagement hereunder is approved by the Bankruptcy Court, the Company shall pay all fees and expenses of Rothschild hereunder as promptly as practicable in accordance with the terms hereof and the orders governing interim and final fee applications, and after obtaining all necessary further approvals from the Bankruptcy Court, if any, provided, however, that the Company shall use its reasonable best efforts (including the filing of any necessary motions sufficiently in advance of the closing of any Transaction or similar transaction, or confirmation or effectiveness of a Plan) to provide for the payment of the fees set forth in Section 4 hereof to Rothschild simultaneously with the closing of such transaction or Transaction or Plan effectiveness, as applicable. In so agreeing to seek Rothschild's retention under Section 328(a) of the Bankruptcy Code, the Company acknowledges that it believes that Rothschild's general restructuring experience and expertise, its knowledge of the industry in which the Company operates and the capital markets and its merger and acquisition capabilities will inure to the benefit of the Company, that the value to the Company of Rothschild's services hereunder derives in substantial part from that expertise and experience and that, accordingly, the structure and amount of the Monthly Fee, the New Capital Fee and the Completion Fee (as each is defined below), are reasonable regardless of the number of hours expended by Rothschild's professionals in performance of the services provided hereunder.

Section 4 Fees of Rothschild. As compensation for the services rendered hereunder, the Company, and its successors, if any, agree to pay Rothschild (via wire transfer or other mutually acceptable means) the following fees in cash:

(a) Commencing as of the date hereof, and whether or not a Transaction is proposed or consummated, a cash advisory fee (the "Monthly Fee") of \$150,000 per month. The Monthly Fee shall be payable by the Company in advance on the first day of each month. The initial

Monthly Fee for June 2012 shall be pro-rated based on the commencement of services as of the date hereof and shall be payable in arrears by the Company on July 1, 2012 (together with the Monthly Fee for July 2012).

(b) A fee (the "Completion Fee") equal to one of the following:

REDACTED

- (i) \$1,750,000, payable in cash immediately upon the earlier of the closing or consummation of the sale, transfer or other disposition to
of at least a majority of the Company's equity interests (calculated on a voting or economic basis) or assets pursuant to §363 of the Bankruptcy Code or otherwise pursuant to a Plan;
- (ii) \$2,000,000, payable in cash immediately upon the earlier of (a) the consummation of a Plan that is confirmed at an uncontested confirmation hearing and (b) the closing of a sale, transfer or other disposition of at least a majority of the Company's equity interests (calculated on a voting or economic basis) or assets to any of the Company's first lien lenders pursuant to §363 of the Bankruptcy Code so long as any such transaction under §363 of the Bankruptcy Code is affirmatively supported by more than 50% in principal amount of claims held by the Company's first lien lenders; or
- (iii) if the Completion Fee is not earned pursuant to either clause (i) or (ii) above, \$2,500,000, payable in cash immediately upon the earlier of the closing or consummation, as applicable, of a Plan or other Transaction not described in either clause (i) or (ii) above.

(c) A new capital fee (the "New Capital Fee" and together with the Monthly Fees and any Completion Fee, the "Fees") equal to (i) 1.0% of the face amount of any senior secured debt raised, other than any debtor-in-possession financing; (ii) 2.0% of the face amount of any junior secured debt raised other than any debtor-in-possession financing; (iii) 3.0% of the face amount of any senior or subordinated unsecured debt raised and (iv) 4.0% of any equity capital, or capital convertible into equity, raised, including, without limitation, equity underlying any warrants, purchase rights and similar contingent equity securities (each, a "New Capital Raise"). The New Capital Fee shall be payable upon the closing of the transaction by which the new capital is committed. For the avoidance of doubt, the term "raised" shall include the amount committed or otherwise made available to the Company whether or not such amount (or any portion thereof) is drawn down at closing or is ever drawn down and whether or not such amount (or any portion thereof) is used to refinance existing obligations of the Company. For the avoidance of doubt, the New Capital Fee relating to any warrants, purchase rights and similar contingent equity securities under clause (iv) shall be due and payable upon the exercise of such warrants, purchase rights or similar contingent equity securities (except to the extent of any cash issuance price paid therefor, for which the New Capital Fee shall be paid upon issuance). Notwithstanding anything contained herein, a New Capital Fee shall be payable only to the extent that the New Capital Raise is from a source that is outside of the Company's current capital structure, including, without limitation, the Company's current shareholders, creditors or customers.

(d) To the extent the Company requests that Rothschild perform additional services not contemplated by this Agreement, such additional fees as shall be mutually agreed upon by Rothschild and the Company, in writing, in advance.

The Company and Rothschild acknowledge and agree that (i) the hours worked, (ii) the results achieved and (iii) the ultimate benefit to the Company of the work performed, in each case, in connection with this engagement, may be variable, and that the Company and Rothschild have taken such factors into account in setting the fees hereunder.

Section 5 Credit. Rothschild shall credit against the Completion Fee 50% of the Monthly Fees paid in excess of \$450,000. For the avoidance of doubt, in no event shall the credit set forth in this Section 5 exceed the Completion Fee.

Section 6 Expenses. Without in any way reducing or affecting the provisions of Exhibit A hereto, the Company shall reimburse Rothschild for its reasonable expenses incurred in connection with the performance of its engagement hereunder and the enforcement of this Agreement including without limitation the reasonable fees, disbursements and other charges of Rothschild's counsel (without the requirement that the retention of such counsel be approved by the Bankruptcy Court). Reasonable expenses shall also include, but not be limited to, expenses incurred in connection with travel and lodging, data processing and communication charges, research and courier services. If a Bankruptcy Case is commenced, consistent with and subject to any applicable order of the Bankruptcy Court, the Company shall promptly reimburse Rothschild for such expenses under this Section 6 upon presentation of an invoice or other similar documentation with reasonable detail.

Section 7 Indemnity. The Company agrees to the provisions of Exhibit A hereto which provide for indemnification by the Company of Rothschild and certain related persons. Such indemnification is an integral part of this Agreement and the terms thereof are incorporated by reference as if fully stated herein. Such indemnification shall survive any termination, expiration or completion of this Agreement or Rothschild's engagement hereunder.

Section 8 Term. The term of Rothschild's engagement shall commence on the date hereof. This Agreement may be terminated in writing by either the Company or Rothschild at any time after ninety (90) days from the date hereof. If terminated, (a) Rothschild shall be entitled to reimbursement of any and all reasonable expenses described in Section 6 and (b) Rothschild shall be entitled to payment of any fees which are due and owing to Rothschild upon the effective date of termination (including, without limitation, any additional Monthly Fees required by Section 4(a) hereof); provided, that the final Monthly Fee will be pro-rated for any incomplete monthly period of service. Termination of Rothschild's engagement hereunder shall not affect or impair the Company's continuing obligation to indemnify Rothschild and certain related persons as provided in Exhibit A. Without limiting any of the foregoing, unless this Agreement is terminated by Rothschild without cause or by the Company due to Rothschild's material breach of this Agreement (which material breach remains uncured for a reasonable period of time after receipt by Rothschild of written notice of such material breach from the Company), gross negligence, fraud or willful misconduct, the Completion Fee and the New Capital Fee(s) shall be payable in the event that (a) as applicable, a Transaction or New Capital Raise is consummated at anytime prior to the expiration of one (1) year after the termination of this Agreement, or (b) a letter of intent or

definitive agreement with respect thereto is executed at any time prior to one (1) year after such termination (which letter of intent or definitive agreement subsequently results in the consummation of a Transaction or New Capital Raise, as applicable, at any time), in such case (y) as to which Rothschild advised the Company hereunder prior to the termination of this Agreement or (z) which involves a party identified or introduced by Rothschild to the Company pursuant to this Agreement regarding a Transaction or New Capital Raise or with whom the Company held discussions regarding a Transaction or New Capital Raise prior to the termination of this Agreement. Without limitation of any of the foregoing, if this Agreement is terminated and any warrants, purchase rights or similar contingent equity securities were issued during the term of this Agreement in connection with Rothschild's engagement hereunder, the New Capital Fee shall be payable in the event that any such warrants, purchase rights or similar contingent equity securities are exercised at any time after such termination. For avoidance of doubt, the Completion Fee and the New Capital Fee(s) shall not be payable if Rothschild terminates this Agreement without cause or if the Company terminates this Agreement due to Rothschild's material breach of this Agreement (which material breach remains uncured for a reasonable period of time after receipt by Rothschild of written notice of such material breach from the Company), gross negligence, fraud or willful misconduct.

Section 9 Miscellaneous.

(a) *Administrative Expense Priority.* In a Bankruptcy Case of the Company, the Company agrees that Rothschild's post-petition compensation as set forth herein and payments made pursuant to reimbursement and indemnification provisions of this Agreement shall be entitled to priority as expenses of administration under Sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code and shall be entitled to the benefits of any "carve-outs" for professional fees and expenses (which carve-outs shall be adequate to enable the Company to pay promptly Rothschild the compensation and expense reimbursement contemplated hereby taking into account the Company's obligations to other professionals entitled to the benefit of the carve-outs) in effect in such cases pursuant to one or more financing orders entered by the Bankruptcy Court. In addition, the Company shall use its reasonable best efforts to ensure that any cash collateral order, debtor-in-possession financing order and/or similar order entered in the Bankruptcy Case permits the use of cash collateral and financing proceeds for the full and prompt payment of Rothschild's fees and expenses contemplated hereby.

(b) *Survival, Successors & Assigns.* Sections 4 through 9 hereof, inclusive, including the provisions set forth in Exhibit A hereto, shall survive the termination or expiration of this Agreement. The benefits of this Agreement and the indemnification and other obligations of the Company to Rothschild and certain related persons contained in Exhibit A hereto shall inure to the respective successors and assigns of the parties hereto and thereto and of the indemnified parties, and the obligations and liabilities assumed in this Agreement and Exhibit A by the parties hereto and thereto shall be binding upon their respective successors and assigns.

(c) *Benefit of Agreement; No Reliance by Third Parties.* The advice (oral or written) rendered by Rothschild pursuant to this Agreement is intended solely for the benefit and use of the Company and its professionals in considering the matters to which this Agreement relates, and the Company agrees that such advice may not be relied upon by any other person, used for any other purpose or reproduced, disseminated, quoted or referred to at any time, in any manner or for any

purpose, nor shall any public references to Rothschild be made by the Company, without the prior written consent of Rothschild or as otherwise provided in this Agreement.

(d) *Nature of Relationship.* The relationship of Rothschild to the Company hereunder shall be that of an independent contractor and Rothschild shall have no authority to bind, represent or otherwise act as agent, executor, administrator, trustee, lawyer or guardian for the Company, nor shall Rothschild have the authority to manage money or property of the Company. The parties hereto acknowledge and agree that by providing the services contemplated hereunder, Rothschild will not act, nor will it be deemed to have acted, in any managerial or fiduciary capacity whatsoever with respect to the Company or any third party including, without limitation, security holders, creditors or employees of the Company.

(e) *Rothschild Affiliates.* Rothschild, through the equity owners of its parent company, Rothschild North America Inc., has indirect affiliate relationships with numerous investment banking institutions located worldwide (the "Affiliated Entities"). None of the Affiliated Entities is being retained hereunder nor will any professionals or employees of the Affiliated Entities provide services to the Company in connection with the matters contemplated hereby. The Affiliated Entities are involved in a wide range of investment banking and other activities. Rothschild can make no representation as to the "disinterestedness" (as defined in the Bankruptcy Code) of the professionals or employees of the Affiliated Entities. Information that is held by the Affiliated Entities will not for any purpose be taken into account in determining Rothschild's responsibilities to the Company hereunder. None of the Affiliated Entities will have any duty to disclose to the Company or any other party, or utilize for the Company's benefit, any non-public information acquired in the course of providing services to any other person engaging in any transaction or otherwise carrying on its business.

(f) *Required Information.* Since Federal law requires Rothschild to obtain, verify, and record information that identifies any entity not listed on the New York Stock Exchange, the American Stock Exchange or whose common stock or equity interests have not been designated as a National Market System security listed on the NASDAQ stock market that enters into a formal relationship with it, the Company agrees to provide Rothschild with its tax or other similar identification number and/or other identifying documents, as Rothschild may reasonably request, to enable it to comply with applicable law. For your information, Rothschild may also screen the Company against various databases to verify its identity.

(g) *Public Announcements.* The Company acknowledges that Rothschild may at its option and expense, after public announcement of a Transaction or a New Capital Raise, place announcements and advertisements or otherwise publicize the Transaction or New Capital Raise in such financial and other newspapers and journals as it may choose, stating that Rothschild acted as financial advisor to the Company in connection with such transaction. The Company further consents to Rothschild's public use or display of Company's logo, symbol or trademark as part of Rothschild's general marketing or promotional activities.

(h) *CHOICE OF LAW: JURISDICTION.* THIS AGREEMENT HAS BEEN NEGOTIATED, EXECUTED AND DELIVERED AT AND SHALL BE DEEMED TO HAVE BEEN MADE IN NEW YORK, NEW YORK. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW

YORK, WITHOUT GIVING EFFECT TO SUCH STATE'S PRINCIPLES OF CONFLICTS OF LAWS. REGARDLESS OF ANY PRESENT OR FUTURE DOMICILE OR PRINCIPAL PLACE OF BUSINESS OF THE PARTIES HERETO, EACH SUCH PARTY HEREBY IRREVOCABLY CONSENTS AND AGREES THAT ANY AND ALL CLAIMS OR DISPUTES BETWEEN THE PARTIES HERETO PERTAINING TO THIS AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE BROUGHT IN (A) ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF NEW YORK OR (B) THE BANKRUPTCY COURT OR ANY COURT HAVING APPELLATE JURISDICTION OVER THE BANKRUPTCY COURT. BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT. EACH PARTY HERETO HEREBY WAIVES ANY OBJECTION WHICH IT MAY HAVE BASED ON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. THE COMPANY CONSENTS TO THE SERVICE OF PROCESS IN ACCORDANCE WITH NEW YORK LAW, AND AGREES THAT THE COMPANY'S PRESIDENT SHALL BE AUTHORIZED TO ACCEPT SERVICE ON ITS BEHALF.

(i) *Waiver of Jury Trial.* Each of the parties hereto hereby knowingly, voluntarily and irrevocably waives any right it may have to a trial by jury in respect of any claim upon, arising out of or in connection with this Agreement or any Transaction. Each of the parties hereto hereby certifies that no representative or agent of any other party hereto has represented expressly or otherwise that such party would not seek to enforce the provisions of this waiver. Each of the parties hereto hereby acknowledges that it has been induced to enter into this Agreement by and in reliance upon, among other things, the provisions of this paragraph.

(j) *Entire Agreement.* This Agreement and Exhibit A embodies the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings, either oral or written, relating to the matters provided for herein. No alteration, waiver, amendment, change or supplement hereto shall be binding or effective unless the same is set forth in writing signed by a duly authorized representative of each of the parties hereto.

(k) *Authority.* Each party hereto represents and warrants that it has all requisite power and authority to enter into this Agreement and Exhibit A and the transactions contemplated hereby. Each party hereto further represents that this Agreement has been duly and validly authorized by all necessary corporate action and has been duly executed and delivered by each of the parties hereto and constitutes the legal, valid and binding agreement thereof, enforceable in accordance with its terms. Rothschild will assume that any instructions, notices or requests have been properly authorized by the Company if they are given or purported to be given by, or is reasonably believed by Rothschild to be a director, officer, employee or authorized agent.

(l) *Counterparts.* This Agreement may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed an original, but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to

Allied Systems Holdings, Inc.
Page 10
June 3, 2012

this Agreement by telecopier shall be effective as delivery of a manually executed counterpart to this Agreement.

(m) *Notices.* Any notice given pursuant to, or relating to, this Agreement shall be in writing and shall be mailed or delivered by courier (a) if to the Company, at the address set forth above, Attn: Mark Gendregske, CEO and (b) if to Rothschild, to Rothschild Inc., 1251 Avenue of the Americas, 51st Floor, New York, New York 10020, Attention: Todd R Snyder, Co-Chair of North American Debt Advisory and Restructuring, with a copy to Rothschild Inc., 1251 Avenue of the Americas, 51st Floor, New York, New York 10020, Attention: General Counsel.

Allied Systems Holdings, Inc.
Page 11
June 3, 2012

If the foregoing correctly sets forth the understanding and agreement between Rothschild and the Company, please so indicate by signing the enclosed copy of this Agreement, whereupon it shall become a binding agreement between the parties hereto as of the date first above written.

Very truly yours,

ROTHSCHILD INC.

By: 

Todd R. Snyder

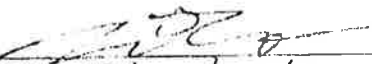
Executive Vice Chairman of North American
Global Financial Advisory, Co-Chair of North
American Debt Advisory and Restructuring

Date: 6/12/12


Allied Systems Holdings, Inc.
Page 12
June 3, 2012

Accepted and Agreed to as of
the date first written above on behalf
of itself and its direct and indirect
subsidiaries:

ALLIED SYSTEMS HOLDINGS, INC.

By: 
Name: John Blount
Title: SVP

ALLIED SYSTEMS, LTD. (L.P.)

By: 
Name: John Blount
Title: SVP

ALLIED AUTOMOTIVE GROUP, INC.


By: 
Name: John Blount
Title: SVP

Exhibit A

The Company shall indemnify and hold harmless Rothschild and its affiliates, counsel and other professional advisors, and the respective directors, officers, controlling persons, agents and employees of each of the foregoing (Rothschild and each of such other persons, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any losses, claims or proceedings, including without limitation stockholder actions, damages, judgments, assessments, investigation costs, settlement costs, fines, penalties, arbitration awards and any other liabilities, costs, fees and expenses (collectively, "Losses") directly or indirectly in connection with, arising out of, based upon, or in any way related to the engagement of Rothschild under this Agreement or any transaction or conduct in connection therewith, provided that the Company shall not be required to indemnify any Indemnified Party for such Losses if and only to the extent that it is finally judicially determined by a court of competent jurisdiction that such Losses arose primarily because of the gross negligence, willful misconduct or fraud of such Indemnified Party. If multiple claims are brought against an Indemnified Party, with respect to at least one of which indemnification is permitted under applicable law and provided for under this Agreement, the Company agrees that any judgment or award against such Indemnified Party shall be conclusively deemed to be based on claims as to which indemnification is permitted and provided for, except to the extent the judgment or award expressly states that it, or any portion thereof, is based on a claim as to which indemnification is not available.

The Company shall further reimburse any Indemnified Party promptly after obtaining the necessary approval of the Bankruptcy Court, if any, for any legal or other fees, disbursements or expenses as they are incurred (a) in investigating, preparing, pursuing or settling any action or other proceeding (whether formal or informal) or threat thereof, whether or not in connection with pending or threatened litigation or arbitration and whether or not any Indemnified Party is a party (each, an "Action") and (b) in connection with enforcing such Indemnified Party's rights under this Agreement; provided, however, that in the event and only to the extent that it is finally judicially determined by a court of competent jurisdiction that the Losses of such Indemnified Party arose primarily because of the gross negligence, willful misconduct or fraud of such Indemnified Party, such Indemnified Party will promptly remit to the Company any amounts reimbursed under this paragraph.

Upon receipt by an Indemnified Party of notice of any Action, such Indemnified Party shall promptly notify the Company in writing of such Action, but the failure to so notify shall not relieve the Company from any liability hereunder (i) if the Company had actual notice of such Action or (ii) unless and only to the extent that such failure results in the forfeiture by the Company of substantial rights and defenses. The Company shall, if requested by Rothschild, assume the defense of any such Action including the employment of counsel reasonably satisfactory to Rothschild and will not, without the prior written consent of Rothschild (which consent shall not be unreasonably withheld), settle, compromise, consent or otherwise resolve or seek to terminate any pending or threatened Action (whether or not any Indemnified Party is a party thereto) unless such settlement, compromise, consent or termination (a) contains an express, unconditional release of each Indemnified Party from all liability relating to such Action

and the engagement of Rothschild under this Agreement and (b) does not include a statement as to, or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party. Any Indemnified Party shall be entitled to retain separate counsel of its choice (reasonably satisfactory to the Company to the extent the fees and expenses of such counsel are to be paid by the Company) and participate in the defense of any Action in connection with any of the matters to which this Agreement relates, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (x) the Company has failed promptly to assume the defense and employ counsel or (y) the named parties to any such Action (including any impleaded parties) include such Indemnified Party and the Company, and such Indemnified Party shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or in addition to those available to the Company; provided that the Company shall not in such event be responsible under this Agreement for the fees and expenses of more than one firm of separate counsel (in addition to local counsel) in connection with any such Action in the same jurisdiction.

The Company agrees that if any right of any Indemnified Party set forth in the preceding paragraphs is finally judicially determined to be unavailable (except by reason of the gross negligence, willful misconduct or fraud of such Indemnified Party), or is insufficient to hold such Indemnified Party harmless against such Losses as contemplated herein, then the Company shall contribute to such Losses (a) in such proportion as is appropriate to reflect the relative benefits received by the Company and its creditors and stockholders, on the one hand, and such Indemnified Party, on the other hand, in connection with the transactions contemplated hereby, and (b) if (and only if) the allocation provided in clause (a) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (a) but also the relative fault of the Company and such Indemnified Party; provided, that, in no event shall the aggregate contribution of all such Indemnified Parties exceed the amount of fees received by Rothschild under this Agreement. Benefits received by Rothschild shall be deemed to be equal to the compensation paid by the Company to Rothschild in connection with this Agreement. Relative fault shall be determined by reference to, among other things, whether any alleged untrue statement or omission or any other alleged conduct relates to information provided by the Company or other conduct by the Company (or the Company's employees or other agents) on the one hand or by Rothschild on the other hand.

The Company also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company for or in connection with advice or services rendered or to be rendered by any Indemnified Party pursuant to this Agreement, the transactions contemplated hereby or any Indemnified Party's actions or inactions in connection with any such advice, services or transactions except for and only to the extent that such Losses of the Company are finally judicially determined by a court of competent jurisdiction to have arisen primarily because of the gross negligence, willful misconduct or fraud of such Indemnified Party in connection with any such advice, actions, inactions or services. In the event the Company commences a Chapter 7 or Chapter 11 case, the Company shall use its reasonable best efforts to require, as a condition of the Company releasing from liability any creditor or other party-in-interest in the case, that such creditor or other party-in-interest release all Indemnified Parties from all claims or other liabilities directly or indirectly in connection

Allied Systems Holdings, Inc.
Exhibit-A, Page 3
June 3, 2012

with, arising out of, based upon, or in any way related to the engagement of Rothschild under this Agreement or any transaction or conduct in connection therewith, provided that the Company shall not be required to obtain such release with respect to the gross negligence, willful misconduct or fraud of any Indemnified Party.

The rights of the Indemnified Parties hereunder shall be in addition to any other rights that any Indemnified Party may have at common law, by statute or otherwise. Except as otherwise expressly provided for in this Agreement, if any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against its regulatory policy, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement shall all remain in full force and effect and shall in no way be affected, impaired or invalidated. The reimbursement, indemnity and contribution obligations of the Company set forth herein shall apply to any modification of this Agreement and shall remain in full force and effect regardless of any termination of, or the completion of any Indemnified Party's services under or in connection with, this Agreement.

Appendix “D”

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ALLIED SYSTEMS HOLDINGS, INC., et al.,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**NOTICE OF *AMENDED*² AGENDA OF MATTERS SCHEDULED
FOR HEARING³ ON OCTOBER 22, 2012 AT 10:00 A.M. (EDT)**

*****AS NO MATTERS ARE SCHEDULED TO GO FORWARD, THE HEARING HAS
BEEN CANCELLED WITH PERMISSION OF THE COURT*****

I. UNCONTESTED MATTER WITH CERTIFICATION OF NO OBJECTION

1. Debtors' Application to Employ and Retain Ogletree, Deakins, Nash, Smoak & Stewart, P.C. as Special Labor and Benefits Counsel for the Debtors *Nunc Pro Tunc* to October 1, 2012 [Docket No. 511; filed October 8, 2012]

Objection/Response Deadline: October 15, 2012 at 4:00 p.m. (EDT).

Related Documents:

- i. Certification of No Objection Regarding Debtors' Application to Employ and Retain Ogletree, Deakins, Nash, Smoak & Stewart, P.C. as Special Labor and Benefits Counsel for the Debtors *Nunc Pro Tunc* to October 1, 2012 [Docket No. 534; filed October 17, 2012]
- ii. **Order Authorizing the Debtors to Employ and Retain Ogletree, Deakins, Nash, Smoak & Stewart, P.C. as Special Labor and Benefits Counsel to the Debtors *Nunc Pro Tunc* to October 1, 2012 [Docket No. 537; filed October 18, 2012]**

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² **Amended agenda items appear in bold.**

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the October 22, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 12:00 p.m. (noon) (EDT) on Friday, October 19, 2012 in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009*. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omnimgt.com/alliedsystems>.

**Status: On October 18, 2012, the Court entered an order resolving this matter.
Accordingly, no hearing is necessary.**

Dated: October 19, 2012
Wilmington, Delaware

/s/ Marisa A. Terranova
Mark D. Collins (No. 2981)
Christopher M. Samis (No. 4909)
Marisa A. Terranova (No. 5396)
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
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-and-

Jeffrey W. Kelley (GA Bar No. 412296)
Ezra H. Cohen (GA Bar No. 173800)
Carolyn P. Richter (GA Bar No. 574097)
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Counsel for the Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ALLIED SYSTEMS HOLDINGS, INC., et al.,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

ALLIED SYSTEMS HOLDINGS, INC.

Plaintiff,

v.

**AMERICAN MONEY MANAGEMENT CORP.,
AVENUE CAPITAL GROUP, BDCM
OPPORTUNITY FUND II, LP, BENNETT
MANAGEMENT, BLACK DIAMOND CLO 2005-1
LTD., DEL MAR DISTRESSED OPPORTUNITIES
MASTER FUND, MJX ASSET MANAGEMENT,
LLC, PAR-FOUR INVESTMENT MANAGEMENT,
SPECTRUM INVESTMENT PARTNERS LP,
TEAK HILL – CREDIT CAPITAL
INVESTMENTS, LLC, THE CIT
GROUP/BUSINESS CREDIT, INC., THE
OFFICIAL COMMITTEE OF UNSECURED
CREDITORS, YUCAIPA AMERICAN ALLIANCE
FUND II, L.P. and YUCAIPA AMERICAN
ALLIANCE (PARALLEL) FUND II, L.P.**

Defendants.

**Adversary Proceeding
No. 12-50947 (CSS)**

NOTICE OF *AMENDED*² AGENDA OF MATTERS SCHEDULED

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² Amended agenda items appear in bold.

FOR HEARING³ ON NOVEMBER 13, 2012 AT 9:00 A.M. (EST)

I. ADJOURNED/CONTINUED MATTER

1. Motion of the Official Committee of Unsecured Creditors for an Order Under Rule 2004 of the Federal Rules of Bankruptcy Procedure Authorizing Discovery from Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP [Docket No. 559; filed October 26, 2012]

Objection/Response Deadline: November 2, 2012 at 4:00 p.m. (EDT).

Objections/Responses: None at this time.

Status: The hearing on this matter has been adjourned to a date to be determined.

II. CONTESTED MATTERS

2. Debtors' Motion, Pursuant to 11 U.S.C. §§ 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay [Docket No. 538; filed October 18, 2012]

Objection/Response Deadline: November 1, 2012 at 4:00 p.m. (EDT).

Objections/Responses:

- A. Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the November 13, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 12:00 p.m. (noon) (EST) on Monday, November 12, 2012 in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009*. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omnimgt.com/alliedsystems>.

Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012]

- B. Reply Brief of Debtor Allied Systems Holdings, Inc, in Response to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay [Docket No. 599/Adv. Docket No. 30; filed November 9, 2012]

Related Documents:

- i. Letter [Docket No. 549/Adv. Docket No. 9; filed October 24, 2012]
- ii. Appendix to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to

Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 576/Adv. Docket No. 13; filed November 1, 2012]

- iii. Appendix to the Petitioning Creditors' Objection to Debtors' Stay Extension Motion, Credit Bid Motion, and DIP Amendment Motion; and Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 581/Adv. Docket No. 18; filed November 1, 2012]
- iv. Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 600/Adv. Docket No. 31; filed November 9, 2012]
- v. Motion of Debtor Allied Systems Holdings, Inc. for Entry of Order Shortening Notice and Objection Periods for Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 601/Adv. Docket No. 32; filed November 9, 2012]

Status: The hearing on this matter will go forward.

- 3. Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders, and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters [Docket No. 539; filed October 18, 2012]

Objection/Response Deadline: November 1, 2012 at 4:00 p.m. (EDT); extended to November 2, 2012 for United States Trustee.

Objections/Responses:

- A. Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative

Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012] (*Document located under Tab 2.A*)

- B. Reply Brief of Debtor Allied Systems Holdings, Inc, in Response to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay [Docket No. 599/Adv. Docket No. 30; filed November 9, 2012] (*Document located under Tab 2.B*)
- C. Informal comments from the Office of the United States Trustee.

Related Documents:

- i. Order Shortening Notice and Objection Periods for Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders, and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters [Docket No. 542; filed 10/19/12]
- ii. Letter [Docket No. 549/Adv. Docket No. 9; filed October 24, 2012] (*Document located under Tab 2.i*)
- iii. Appendix to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among

the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 576/Adv. Docket No. 13; filed November 1, 2012] (*Document located under Tab 2.ii*)

- iv. Appendix to the Petitioning Creditors' Objection to Debtors' Stay Extension Motion, Credit Bid Motion, and DIP Amendment Motion; and Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 581/Adv. Docket No. 18; filed November 1, 2012] (*Document located under Tab 2.iii*)
- v. Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 600/Adv. Docket No. 31; filed November 9, 2012] (*Document located under Tab 2.iv*)
- vi. Motion of Debtor Allied Systems Holdings, Inc. for Entry of Order Shortening Notice and Objection Periods for Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 601/Adv. Docket No. 32; filed November 9, 2012] (*Document located under Tab 2.v*)

Status: The hearing on this matter will go forward.

III. ADVERSARY PROCEEDING WITH CERTIFICATION OF NO OBJECTION

- 4. Allied Systems Holdings, Inc.'s Motion to File Under Seal Unredacted Versions of (A) Verified Complaint for Declaratory Judgment and Injunctive Relief and (B) Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 6; filed October 18, 2012]

Objection/Response Deadline: November 1, 2012 at 4:00 p.m. (EDT)

Objections/Responses: None.

Related Documents:

- i. Verified Complaint for Declaratory Judgment and Injunctive Relief [Adv. Docket No. 1; filed October 18, 2012]
- ii. Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 5; filed October 18, 2012]
- iii. Certification of No Objection Regarding Allied Systems Holdings, Inc.'s Motion to File Under Seal Unredacted Versions of (A) Verified Complaint for Declaratory Judgment and Injunctive Relief and (B) Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 29; filed November 7, 2012]

Status: On November 7, 2012, the Debtors filed a certification of no objection regarding this matter. Accordingly, a hearing on this matter is required only to the extent the Court has any questions or concerns.

IV. ADVERSARY PROCEEDING CONTESTED MATTERS

5. Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 4; filed October 18, 2012]

Objection/Response Deadline: November 1, 2012 at 4:00 p.m. (EDT).

Objections/Responses:

- A. Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of

BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012] (*Document located under Tab 2.A*)

- B. Reply Brief of Debtor Allied Systems Holdings, Inc, in Response to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay [Docket No. 599/Adv. Docket No. 30; filed November 9, 2012] (*Document located under Tab 2.B*)
- C. **Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Brief (A) in Support of Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, and (B) In Response to the Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. [Docket No. 603/Adv. D.I. 34; filed November 9, 2012]**
- D. **Statement of the Official Committee of Unsecured Creditors in Support of the Debtors' Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties [Adv. Docket No. 37; filed November 9, 2012]**

Related Documents:

- i. Verified Complaint for Declaratory Judgment and Injunctive Relief [Adv. Docket No. 1; filed October 18, 2012]
- ii. Summons and Notice of Pretrial Conference in an Adversary Proceeding [Adv. Docket No. 3; filed October 18, 2012]

- iii. Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 5; filed October 18, 2012]
- iv. Allied Systems Holdings, Inc.'s Motion to File Under Seal Unredacted Versions of (A) Verified Complaint for Declaratory Judgment and Injunctive Relief and (B) Brief of Debtor Allied Systems Holdings, Inc., in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 6; filed October 18, 2012]
- v. Summons and Notice of Pretrial Conference in an Adversary Proceeding [Adv. Docket No. 7; filed October 19, 2012]
- vi. Letter [Adv. Docket No. 9; filed October 24, 2012] (*Document located under Tab 2.i*)
- vii. Appendix to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 576/Adv. Docket No. 13; filed November 1, 2012] (*Document located under Tab 2.ii*)
- viii. [PROPOSED] Order Granting Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 577/Adv. Docket No. 14; filed November 1, 2012]
- ix. Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 578/Adv. Docket No. 15; filed November 1, 2012]

- x. Appendix to the Petitioning Creditors' Objection to Debtors' Stay Extension Motion, Credit Bid Motion, and DIP Amendment Motion; and Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 581/Adv. Docket No. 18; filed November 1, 2012] (*Document located under Tab 2.iii*)
- xi. Order Granting Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 583/Adv. Docket No. 20; filed November 2, 2012]
- xii. Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 600/Adv. Docket No. 31; filed November 9, 2012] (*Document located under Tab 2.iv*)
- xiii. Motion of Debtor Allied Systems Holdings, Inc. for Entry of Order Shortening Notice and Objection Periods for Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 601/Adv. Docket No. 32; filed November 9, 2012] (*Document located under Tab 2.v*)
- xiv. **Affidavit of Michael R. Nestor in Support Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Brief (A) in Support of Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, and (B) in Response to the Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. [Docket No. 606/Adv. Docket No. 36; filed November 9, 2012]**

Status: The hearing on the Debtors' motions and the Petitioning Creditors cross-motion will go forward.

- 6. Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to Exceed the Page Limitation of Local Rule 7007-2 [Docket No. 579/Adv. Docket No. 16; filed November 1, 2012]

Objection/Response Deadline: November 12, 2012 at 12:00 p.m. (noon) (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Motion to Exceed the Page Limitation of Local Rule 7007-2 [Docket No. 580/Adv. Docket No. 17; filed November 1, 2012]

- ii. Order Granting Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Motion to Exceed the Page Limitation of Local Rule 7007-2 [Docket No. 584/Adv. Docket 21; filed November 2, 2012]
- iii. Order Granting Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Motion to Exceed the Page Limitation of Local Rule 7007-2 [Docket No. 585/Adv. Docket No. 22; filed November 2, 2012]
- iv. Notice of Hearing Regarding Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to Exceed the Page Limitation of Local Rule 7007-2 [Docket No. 588/Adv. Docket No. 24; filed November 2, 2012]

Status: The hearing on this matter will go forward.

7. **Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012] (*Document also located under Tab 2.A*)**

Objection/Response Deadline: November 12, 2012 at 12:00 p.m. (noon) (EST).

Objections/Responses:

- A. **Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Objection to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and**

Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 604/Adv. Docket No. 35; filed November 9, 2012]

- B. Debtors' Response to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 607/Adv. Docket No. 38; filed November 9, 2012]**

Related Documents:

- i. Appendix to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 576/Adv. Docket No. 13; filed November 1, 2012] (*Document also located under Tab 2.ii*)**
- ii. [PROPOSED] Order Granting Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 577/Adv. Docket No. 14; filed November 1, 2012] (*Document also located under Tab 5.viii*)**
- iii. Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 578/Adv. Docket No. 15; filed November 1, 2012] (*Document also located under Tab. 5.ix*)**
- iv. Appendix to the Petitioning Creditors' Objection to Debtors' Stay Extension Motion, Credit Bid Motion, and DIP Amendment Motion; and Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 581/Adv. Docket No. 18; filed November 1, 2012] (*Document also located under Tab 2.iii*)**

- v. **Order Granting Petitioning Creditors' Motion Pursuant to Del. Bankr. L.R. 9006-1(e) for an Order Shortening Time for Notice of the Hearing to Consider Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 583/Adv. Docket No. 20; filed November 2, 2012] (*Document also located under Tab 5.xi*)**
- vi. **Notice of Hearing Regarding Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 587/Adv. Docket No. 23; filed November 2, 2012]**

Status: The hearing on this matter will go forward.

- 8. **Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 600/Adv. Docket No. 31; filed November 9, 2012] (*Document also located under Tab 2.iv*)**

Objection/Response Deadline: N/A

Objections/Responses: None at this time.

Related Documents:

- i. **Motion of Debtor Allied Systems Holdings, Inc. for Entry of Order Shortening Notice and Objection Periods for Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 601/Adv. Docket No. 32; filed November 9, 2012] (*Document also located under Tab 2.v*)**

Status: The hearing on this matter will go forward.

- 9. **Motion of Debtor Allied Systems Holdings, Inc. for Entry of Order Shortening Notice and Objection Periods for Motion of Debtor Allied Systems Holdings, Inc. for Leave to Exceed Page Limit Requirement for Reply Brief [Docket No. 601/Adv. Docket No. 32; filed November 9, 2012] (*Document also located under Tab 2.v*)**

Objection/Response Deadline: N/A

Objections/Responses: None at this time.

Status: The hearing on this matter will go forward.

Dated: November 12, 2012
Wilmington, Delaware



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Counsel for the Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

ALLIED SYSTEMS HOLDINGS, INC., *et al.*,¹

Debtors.

ALLIED SYSTEMS HOLDINGS, INC.

Plaintiff,

v.

AMERICAN MONEY MANAGEMENT CORP., AVENUE
CAPITAL GROUP, BDCM OPPORTUNITY FUND II, LP,
BENNETT MANAGEMENT, BLACK DIAMOND CLO
2005-1 LTD., DEL MAR DISTRESSED OPPORTUNITIES
MASTER FUND, MJX ASSET MANAGEMENT, LLC,
PAR-FOUR INVESTMENT MANAGEMENT, SPECTRUM
INVESTMENT PARTNERS LP, TEAK HILL – CREDIT
CAPITAL INVESTMENTS, LLC, THE CIT
GROUP/BUSINESS CREDIT, INC., THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS, YUCAIPA
AMERICAN ALLIANCE FUND II, L.P. and YUCAIPA
AMERICAN ALLIANCE (PARALLEL) FUND II, L.P.

Defendants.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

Adversary Proceeding
No. 12-50947 (CSS)

**NOTICE OF AMENDED² AGENDA OF MATTERS SCHEDULED
FOR HEARING³ ON NOVEMBER 26, 2012 AT 2:00 P.M. (EST)**

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² Amended agenda items appear in bold.

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the November 26, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 12:00 p.m. (noon) (EST) on Wednesday, November 21, 2012, in accordance with the (Continued)

I. ADJOURNED/CONTINUED MATTER:

1. Motion of the Official Committee of Unsecured Creditors for an Order Under Rule 2004 of the Federal Rules of Bankruptcy Procedure Authorizing Discovery from Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP [Docket No. 559; filed October 26, 2012]

Objection/Response Deadline: November 2, 2012 at 4:00 p.m. (EDT).

Status: The hearing on this matter has been adjourned to a date to be determined.

II. CONTESTED MATTER:

2. Motion of Ysbelys M. Martinez to Lift Automatic Stay to Allow for the Continued Prosecution of Civil Action in the State of Michigan Third Judicial Circuit [Docket No. 613; filed November 9, 2012]

Objection Deadline: November 19, 2012 at 4:00 p.m. (EST); extended to November 20, 2012 at 12:00 p.m. (noon) (EST) for the Debtors.

Objections/Responses Received:

- A. Debtors' Objection to the Motion of Ysbelys M. Martinez to Lift Automatic Stay to Allow for the Continued Prosecution of Civil Action in the State of Michigan Third Judicial Circuit [Docket No. 645; filed November 20, 2012]

Status: The hearing on this matter will go forward.

III. INTERIM FEE APPLICATIONS:

3. First Interim Fee Applications

Status: The hearing on the interim fee applications listed on Exhibit A hereto will go forward.

IV. STATUS CONFERENCE IN ADV. PRO. NO. 12-50947 (CSS)

4. **Verified Complaint for Declaratory Judgment and Injunctive Relief [Docket No. 535/Adv. Docket No. 1; filed October 18, 2012]**

Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omningt.com/alliedsystems>.

Related Documents:

- A. **Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 4; filed October 18, 2012]**
- B. **Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 5; filed October 18, 2012]**
- C. **Debtors' Motion, Pursuant to 11 U.S.C. §§ 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 503(b) and 507(a), Fed. R. Bankr. P. 2002, 4001 and 9014 and Del. Bankr. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying Automatic Stay [Docket No. 538; filed October 18, 2012]**
- D. **Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders, and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters [Docket No. 539; filed October 18, 2012]**
- E. **Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority**

Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012]

- F. **Appendix to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 576/Adv. Docket No. 13; filed November 1, 2012]**
- G. **[PROPOSED] Order Granting Petitioning Creditors' Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 577/Adv. Docket No. 14; filed November 1, 2012]**
- H. **Appendix to the Petitioning Creditors' Objection to Debtors' Stay Extension Motion, Credit Bid Motion, and DIP Amendment Motion; and Cross-Motion for Abstention Pursuant to 28 U.S.C. § 1334(c) [Docket No. 581/Adv. Docket No. 18; filed November 1, 2012]**
- I. **Reply Brief of Debtor Allied Systems Holdings, Inc, in Response to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to**


Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay [Docket No. 599/Adv. Docket No. 30; filed November 9, 2012]

- J. **Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Brief (A) in Support of Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, and (B) In Response to the Omnibus Obejection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. [Docket No. 603/Adv. D.I. 34; filed November 9, 2012]**
- K. **Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Objection to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 604/Adv. Docket No. 35; filed November 9, 2012]**
- L. **Affidavit of Michael R. Nestor in Support Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Brief (A) in Support of Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, and (B) in Response to the Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. [Docket No. 606/Adv. Docket No. 36; filed November 9, 2012]**
- M. **Statement of the Official Committee of Unsecured Creditors in Support of the Debtors' Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties [Adv. Docket No. 37; filed November 9, 2012]**

- N. **Debtors' Response to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 607/Adv. Docket No. 38; filed November 9, 2012]**
- O. **Order Granting Extension of Answer Deadline Under Bankruptcy Rule 7012(a) [Adv. Docket No. 49; filed November 16, 2012]**
- P. **Letter [Docket No. 647; filed November 20, 2012]**

Status: The Court will conduct a status conference regarding the adversary proceeding.

Dated: November 21, 2012
Wilmington, Delaware


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Counsel for the Debtors

EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ALLIED SYSTEMS HOLDINGS, INC., et al.,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**INDEX OF INTERIM FEE APPLICATIONS
TO BE CONSIDERED AT THE NOVEMBER 26, 2012 HEARING**

1. First Interim Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through August 31, 2012 [Docket No. 517; filed October 10, 2012]

Related Documents:

- A. First Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through June 30, 2012 [Docket No. 349; filed August 15, 2012]
- B. Certificate of No Objection (No Order Required) Regarding First Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through June 30, 2012 [Docket No. 412; filed September 6, 2012]
- C. Second Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 399; filed August 31, 2012]
- D. Certificate of No Objection (No Order Required) Regarding Second Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 459; filed September 24, 2012]

- E. Third Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 505; filed October 2, 2012]
 - F. Certificate of No Objection (No Order Required) Regarding Third Monthly Application of Sullivan Hazeltine Allinson LLC for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 551; filed October 24, 2012]
2. First Interim Application of Stikeman Elliott LLP for Compensation for Services Rendered and Reimbursement of Expenses as Canadian Counsel to the Official Committee of Unsecured Creditors for the Period from July 5, 2012 through August 31, 2012 [Docket No. 522; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Stikeman Elliott LLP for Compensation for Services Rendered and Reimbursement of Expenses as Canadian Counsel to the Official Committee of Unsecured Creditors for the Period from July 5, 2012 through August 31, 2012 [Docket No. 477; filed September 27, 2012]
 - B. Certificate of No Objection (No Order Required) Regarding First Monthly Application of Stikeman Elliott LLP for Compensation for Services Rendered and Reimbursement of Expenses as Canadian Counsel to the Official Committee of Unsecured Creditors for the Period from July 5, 2012 through August 31, 2012 [Docket No. 544; filed October 19, 2012]
3. First Interim Fee Application Request (Richards, Layton & Finger, P.A.) [Docket No. 523; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors in Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 310; filed July 31, 2012]
- B. Certification of No Objection Regarding First Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 367; filed August 22, 2012]

- C. Second Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors in Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 380; filed August 27, 2012]
 - D. Certification of No Objection Regarding Second Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 442; filed September 19, 2012]
 - E. Third Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 488; filed October 1, 2012]
 - F. Certification of No Objection Regarding Third Monthly Application of Richards, Layton & Finger, P.A. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 552; filed October 24, 2012]
4. First Interim Fee Application Request (Troutman Sanders LLP) [Docket No. 524; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 321; filed August 3, 2012]
- B. Certification of No Objection Regarding First Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 381; filed August 27, 2012]
- C. Second Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors in Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 379; filed August 27, 2012]
- D. Certification of No Objection Regarding Second Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 441; filed September 19, 2012]

- E. Third Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 487; filed September 28, 2012]
 - F. Certification of No Objection Regarding Third Monthly Application of Troutman Sanders, LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Co-Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 545; filed 10/22/12]
5. First Interim Fee Application Request (Gowling Lafleur Henderson LLP) [Docket No. 525; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 404; filed September 5, 2012]
- B. Certification of No Objection Regarding First Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 480; filed September 28, 2012]
- C. Second Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 443; filed September 20, 2012]
- D. Certification of No Objection Regarding Second Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from July 1, 2012 through July 31, 2012 [Docket No. 521; filed October 12, 2012]
- E. Third Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 504; filed October 2, 2012]
- F. Certification of No Objection Regarding Third Monthly Application of Gowling Lafleur Henderson LLP for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Canadian Counsel to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 553; filed October 24, 2012]

6. First Interim Fee Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from June 25, 2012 through August 31, 2012 [Docket No. 526; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from June 25, 2012 through June 30, 2012 [Docket No. 439; filed September 17, 2012]
 - B. Certification of No Objection (No Order Required) Regarding First Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from June 25, 2012 through June 30, 2012 [Docket No. 519; filed October 11, 2012]
 - C. Second Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 440; filed September 18, 2012]
 - D. Certification of No Objection (No Order Required) Regarding Second Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 520; filed October 11, 2012]
 - E. Third Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 510; filed October 8, 2012]
 - F. Certification of No Objection (No Order Required) Regarding Third Monthly Application of Conway MacKenzie, Inc. for Compensation for Services Rendered and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 640; filed November 19, 2012]
7. First Interim Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through August 31, 2012 [Docket No. 527; filed October 15, 2012]

Related Documents:

- A. First Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through June 30, 2012 [Docket No. 419; filed September 7, 2012]
- B. Certification of No Objection (No Order Required) Regarding First Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from June 19, 2012 through June 30, 2012 [Docket No. 489; filed October 1, 2012]
- C. Second Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 490; filed October 1, 2012]
- D. Certification of No Objection (No Order Required) Regarding Second Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from July 1, 2012 through July 31, 2012 [Docket No. 550; filed October 24, 2012]
- E. Third Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 516; filed October 10, 2012]
- F. Certification of No Objection (No Order Required) Regarding Third Monthly Application of Sidley Austin LLP for Compensation for Services Rendered and Reimbursement of Expenses as Co-Counsel to the Official Committee of Unsecured Creditors for the Period from August 1, 2012 through August 31, 2012 [Docket No. 592; filed November 2, 2012]

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ALLIED SYSTEMS HOLDINGS, INC., et al.,¹

Debtors.

ALLIED SYSTEMS HOLDINGS, INC.

Plaintiff,

v.

AMERICAN MONEY MANAGEMENT CORP., AVENUE CAPITAL GROUP, BDCM OPPORTUNITY FUND II, LP, BENNETT MANAGEMENT, BLACK DIAMOND CLO 2005-1 LTD., DEL MAR DISTRESSED OPPORTUNITIES MASTER FUND, MJX ASSET MANAGEMENT, LLC, PAR-FOUR INVESTMENT MANAGEMENT, SPECTRUM INVESTMENT PARTNERS LP, TEAK HILL – CREDIT CAPITAL INVESTMENTS, LLC, THE CIT GROUP/BUSINESS CREDIT, INC., THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS, YUCAIPA AMERICAN ALLIANCE FUND II, L.P. and YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND II, L.P.

Defendants.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**Adversary Proceeding
No. 12-50947 (CSS)**

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveaway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

**YUCAIPA AMERICAN ALLIANCE FUND I, L.P.,
YUCAIPA AMERICAN ALLIANCE (PARALLEL) FUND I,
L.P., YUCAIPA AMERICAN ALLIANCE FUND II, L.P.,
AND YUCAIPA AMERICAN ALLIANCE (PARALLEL)
FUND II, L.P.**

Counterclaim and Cross-Claim Plaintiffs,

v.

ALLIED SYSTEMS HOLDINGS, INC.

Counterclaim Defendant,

and

**AMERICAN MONEY MANAGEMENT CORP., AVENUE
CAPITAL GROUP, BDCM OPPORTUNITY FUND II, LP,
BENNETT MANAGEMENT, BLACK DIAMOND CLO
2005-1 LTD., DEL MAR DISTRESSED OPPORTUNITIES
MASTER FUND, MJX ASSET MANAGEMENT, LLC,
PAR-FOUR INVESTMENT MANAGEMENT, SPECTRUM
INVESTMENT PARTNERS LP, TEAK HILL - CREDIT
CAPITAL INVESTMENTS, LLC, THE CIT
GROUP/BUSINESS CREDIT, INC., THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS,**

Cross-Claim Defendants.

**NOTICE OF *AMENDED*² AGENDA OF MATTERS SCHEDULED
FOR HEARING³ ON DECEMBER 20, 2012 AT 1:30 P.M. (EST)**

I. STATUS CONFERENCE IN ADV. PRO NO. 12-50947 (CSS)

1. Verified Complaint for Declaratory Judgment and Injunctive Relief [Docket No. 535/Adv. Docket No. 1; filed October 18, 2012]

Related Documents:

- i. Summons and Notice of Pretrial Conference in an Adversary Proceeding [Adv. Docket No. 3; filed October 18, 2012]

² **Amended agenda items appear in bold.**

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the December 20, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 12:00 p.m. (noon) (EST) on Wednesday, December 19, 2012, in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009*. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omningt.com/alliedsystems>.

- ii. Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 4; filed October 18, 2012]
- iii. Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 5; filed October 18, 2012]
- iv. Summons and Notice of Pretrial Conference in an Adversary Proceeding [Adv. Docket No. 7; filed October 19, 2012]
- v. Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay, and Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 574/Adv. Docket No. 12; filed November 1, 2012]
- vi. Reply Brief of Debtor Allied Systems Holdings, Inc. in Response to Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P., to the Debtors' (1) Motion for an Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, (2) Motion for an Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019 Approving Stipulation Among the Debtors, the DIP Agent, the DIP Lenders and the Official Committee of Unsecured Creditors Regarding Postpetition Secured DIP Financing, Credit Bidding Under Section 363 of the Bankruptcy Code and Certain Administrative Matters, and (3) Motion Pursuant to 11 U.S.C. § 105(a), for Order Amending the Final Order Pursuant to 11 U.S.C. §§ 361, 362, 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 503(b), and 507(a), Fed. R. Bank. P. 2002, 4001, and 9014 and Del. Bank. L.R. 4001-2: (I) Authorizing Debtors to (A) Obtain Postpetition Secured DIP Financing and (B) Use Cash Collateral; (II) Granting

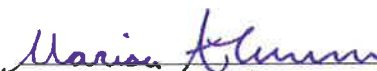
Superpriority Liens and Providing for Superpriority Administrative Expense Status; (III) Granting Adequate Protection to Prepetition Secured Lenders; and (IV) Modifying the Automatic Stay [Docket No. 599/Adv. Docket No. 30; filed November 9, 2012]

- vii. Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Brief (A) in Support of Motion of Debtor Allied Systems Holdings, Inc. for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code, and (B) In Response to the Omnibus Objection of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. [Docket No. 603/Adv. D.I. 34; filed November 9, 2012]
- viii. Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Objection to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 604/Adv. Docket No. 35; filed November 9, 2012]
- ix. Statement of the Official Committee of Unsecured Creditors in Support of the Debtors' Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties [Adv. Docket No. 37; filed November 9, 2012]
- x. Debtors' Response to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 LTD, and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 607/Adv. Docket No. 38; filed November 9, 2012]
- xi. Documents to be Kept Under Seal re: Verified Complaint for Declaratory Judgment and Injunctive Relief [Adv. Docket No. 45; filed November 15, 2012]
- xii. Documents to be Kept Under Seal re: Brief of Debtor Allied Systems Holdings, Inc. in Support of its Motion for Order Extending the Automatic Stay to Certain Non-Debtor Third Parties Pursuant to Sections 105 and 362 of the Bankruptcy Code [Adv. Docket No. 46; filed November 15, 2012]
- xiii. Order Granting Extension of Answer Deadline Under Bankruptcy Rule 7012(a) [Adv. Docket No. 49; filed November 16, 2012]
- xiv. Notice of Further Rescheduled Status Conference [Adv. Docket No. 54; filed November 29, 2012]
- xv. Yucaipa's (I) Counterclaim and Cross-Claim for Declaratory Judgment and Injunctive and Other Relief and (II) Answer to Debtors' Verified Complaint [Adv. Docket No. 55; filed December 5, 2012]

- xvi. Yucaipa American Alliance Fund I, L.P.'s and Yucaipa American Alliance (Parallel) Fund I, L.P.'s Supplemental Brief in Support of their Objection to Cross-Motion of BDCM Opportunity Fund II, LP, Black Diamond CLO 2005-1 Ltd and Spectrum Investment Partners, L.P. Pursuant to 28 U.S.C. § 1334(c) for Abstention [Docket No. 704/Adv. Docket No. 58; filed December 17, 2012]
- xvii. **Letter to the Honorable Christopher Sontchi [Adv. Docket No. 60; filed December 19, 2012]**

Status: The status conference on the adversary proceeding and the cross-motion for abstention will go forward.

Dated: December 19, 2012
Wilmington, Delaware


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-and-

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Counsel for the Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

ALLIED SYSTEMS HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**NOTICE OF AMENDED² AGENDA OF MATTERS SCHEDULED
FOR HEARING³ ON DECEMBER 21, 2012 AT 11:00 A.M. (EST)**

***AS NO MATTERS ARE SCHEDULED TO GO FORWARD, THE HEARING HAS
BEEN CANCELLED WITH PERMISSION OF THE COURT***

I. ADJOURNED/CONTINUED MATTER:

1. Motion of the Official Committee of Unsecured Creditors for an Order Under Rule 2004 of the Federal Rules of Bankruptcy Procedure Authorizing Discovery from Yucaipa American Alliance Fund I, LP and Yucaipa American Alliance (Parallel) Fund I, LP [Docket No. 559; filed October 26, 2012]

Objection/Response Deadline: November 2, 2012 at 4:00 p.m. (EDT).

Objections/Responses: None at this time.

Status: The hearing on this matter has been adjourned to a date to be determined.

II. UNCONTESTED MATTERS WITH CERTIFICATION OF NO OBJECTION:

2. Debtors' Application for an Order Seeking to Expand PricewaterhouseCoopers LLP's Retention in Order to Provide Certain Tax Consulting Services *Nunc Pro Tunc* to the Supplemental Retention Date [Docket No. 655; filed November 26, 2012]

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² Amended agenda items appear in bold.

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the December 21, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 12:00 p.m. (noon) (EDT) on Thursday, December 20, 2012 in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009*. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omnimgt.com/alliedsystems>.

Objection/Response Deadline: December 10, 2012 at 4:00 p.m. (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Certification of No Objection Regarding Debtors' Application for an Order Seeking to Expand PricewaterhouseCoopers LLP's Retention in Order to Provide Certain Tax Consulting Services *Nunc Pro Tunc* to the Supplemental Retention Date [Docket No. 700; filed December 12, 2012]
- ii. **Order Expanding PricewaterhouseCoopers LLP's Retention in Order to Provide Certain Tax Consulting Services to the Debtors *Nunc Pro Tunc* to the Supplemental Retention Date [Docket No. 717; filed December 20, 2012]**

Status: On December 20, 2012, the Court entered an order resolving this matter. Accordingly, no hearing is necessary.

3. First Omnibus Motion for an Order Pursuant to Sections 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Reject Certain Real Property Leases [Docket No. 672; filed November 30, 2012]

Objection/Response Deadline: December 14, 2012 at 4:00 p.m. (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Certification of No Objection Regarding First Omnibus Motion for an Order Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Reject Certain Real Property Leases [Docket No. 706; filed December 18, 2012]
- ii. **Order Granting First Omnibus Motion for an Order Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Reject Certain Real Property Leases [Docket No. 716; filed December 20, 2012]**

Status: On December 20, 2012, the Court entered an order resolving this matter. Accordingly, no hearing is necessary.

4. Debtors' Second Motion Pursuant to Bankruptcy Rules 9006(b) and 9027 for Order Extending the Time to File Notices of Removal of Civil Actions [Docket No. 675; filed 12/4/12]

Objection/Response Deadline: December 14, 2012 at 4:00 p.m. (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Certification of No Objection Regarding Debtors' Second Motion Pursuant to Bankruptcy Rules 9006(b) and 9027 for Order Extending the Time to File Notices of Removal of Civil Actions [Docket No. 707; filed December 18, 2012]
- ii. **Order Pursuant to Bankruptcy Rules 9006(b) and 9027 for Second Order Extending the Time to File Notices of Removal of Civil Actions [Docket No. 719; filed December 20, 2012]**

Status: **On December 20, 2012, the Court entered an order resolving this matter. Accordingly, no hearing is necessary.**

5. Debtors' Second Motion for Extension of Exclusive Periods During Which Debtors May Propose and File Plans of Reorganization and Solicit Acceptances Thereof [Docket No. 676; filed 12/4/12]

Objection/Response Deadline: December 14, 2012 at 4:00 p.m. (EST)

Objections/Responses: Notice of this time.

Related Documents:

- i. Certification of No Objection Regarding Debtors' Second Motion for Extension of Exclusive Periods During Which Debtors May Propose and File Plans of Reorganization and Solicit Acceptances Thereof [Docket No. 708; filed December 18, 2012]
- ii. **Order Pursuant to Section 11 U.S.C. § 1121(d) Extending the Exclusive Periods Within Which Debtors May File A Chapter 11 Plan and Solicit Acceptances Thereof [Docket No. 718; filed December 20, 2012]**

Status: **On December 20, 2012, the Court entered an order resolving this matter. Accordingly, no hearing is necessary.**

III. UNCONTESTED MATTER:

6. First Omnibus Motion for an Order Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Assume Certain Real Property Leases [Docket No. 671; filed November 30, 2012]

Objection/Response Deadline: December 14, 2012 at 4:00 p.m. (EST); extended to January 16, 2013 at 4:00 p.m. for the City of New York; extended to December 17, 2012 at 4:00 p.m. for the Official Committee of Unsecured Creditors.

Objections/Responses: None at this time.

Related Documents:

- i. Certification of Counsel Regarding Order Authorizing and Approving the Stipulation Between Debtors and the City of New York with Respect to Assumption of Non-Residential Real Estate Lease [Docket No. 702; filed December 14, 2012]
- ii. Order Authorizing and Approving the Stipulation Between Debtors and the City of New York with Respect to Assumption of Non-Residential Real Estate Lease [Docket No. 703; filed December 17, 2012]
- iii. **Certification of Counsel Regarding Order First Omnibus Motion for an Order Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Assume Certain Real Property Leases [Docket No. 724; filed December 21, 2012]**
- iv. **Order Granting First Omnibus Motion for an Order Pursuant to Section 365 of the Bankruptcy Code and Bankruptcy Rule 6006 Authorizing the Debtors to Assume Certain Real Property Leases [Docket No. 726; filed December 21, 2012]**

Status: On December 17, 2012, the Court entered an order extending the deadline by which the Debtors are required to assume or reject the lease agreement with the City of New York while the parties negotiate further, and accordingly, this matter is adjourned with respect to the lease agreement with the City of New York. **On December 21, 2012, the Court entered an order resolve this matter with respect to each of the leases other than the lease agreement with the City of New York. Accordingly, no hearing is necessary.**

IV. INTERIM FEE APPLICATION:

7. First Interim Fee Application of Rust Consulting/Omni Bankruptcy

Status: **On December 20, 2012, the Court entered an order resolving this matter. Accordingly, no hearing is necessary.**

Dated: December 21, 2012
Wilmington, Delaware



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Counsel for the Debtors

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

ALLIED SYSTEMS HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**AMENDED² INDEX OF INTERIM FEE APPLICATION
TO BE CONSIDERED AT THE DECEMBER 21, 2012 HEARING**

1. First Interim Fee Application Request (Rust Consulting/Omni Bankruptcy) [Docket No. 652; filed November 21, 2012]

Related Documents:

- A. First Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 341; filed August 10, 2012]
- B. Certificate of No Objection Regarding First Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider to the Debtors and Debtors-in-Possession for the Period from June 10, 2012 through June 30, 2012 [Docket No. 402; filed September 4, 2012]
- C. Second Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider to the Debtors and Debtors-in-Possession for the Period from June 25, 2012 through July 31, 2012 [Docket No. 405; filed September 5, 2012]
- D. Certificate of No Objection Regarding Second Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² Amended items appear in bold.

to the Debtors and Debtors-in-Possession for the Period from June 25, 2012 through July 31, 2012 [Docket No. 478; filed September 27, 2012]

- E. Third Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 643; filed November 19, 2012]
- F. Certificate of No Objection Regarding Third Monthly Application of Rust Consulting/Omni Bankruptcy for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses as Administrative Service Provider to the Debtors and Debtors-in-Possession for the Period from August 1, 2012 through August 31, 2012 [Docket No. 699; filed December 12, 2012]
- G. **Fee Examiner's Final Report Regarding First Interim Fee Application Request of Rust Consulting/Omni Bankruptcy [Docket No. 721; filed December 20, 2012]**
- H. **Certification of Counsel Regarding Order Approving Rust Consulting/Omni Bankruptcy First Interim Fee Application Request [Docket No. 723; filed December 20, 2012]**
- I. **Order Approving Rust Consulting/Omni Bankruptcy First Interim Fee Application Request [Docket No. 725; filed December 21, 2012]**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

ALLIED SYSTEMS HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 12-11564 (CSS)

(Jointly Administered)

**NOTICE OF AMENDED² AGENDA OF MATTERS SCHEDULED
FOR HEARING³ ON DECEMBER 28, 2012 AT 11:00 A.M. (EST)**

I. UNCONTESTED MATTERS:

1. Debtors' Motion Pursuant to Section 364(c)(2) of the Bankruptcy Code for Authority to Enter into Insurance Premium Financing Agreement with CAFO, Inc. [Docket No. 728; filed December 21, 2012]

Objection/Response Deadline: December 28, 2012 at 11:00 a.m. (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Debtors' Motion to Shorten Notice and Obejction Periods for Motions to Enter into Insurance Premium Financing Agreements [Docket No. 731; filed December 21, 2012]
- ii. Order Shortening Notice and Objection Periods for Motions to Enter into Insurance Premium Financing Agreements [Docket No. 740; filed December 27, 2012]
- iii. **Notice of Hearing on "Motions to Enter into Insurance Premium Financing Agreements" and Objection Deadlines in Connection Therewith [Docket No. 742; filed December 27, 2012]**

¹ The Debtors in these cases, along with the federal tax identification number (or Canadian business number where applicable) for each of the Debtors, are: Allied Systems Holdings, Inc. (58-0360550); Allied Automotive Group, Inc. (58-2201081); Allied Freight Broker LLC (59-2876864); Allied Systems (Canada) Company (90-0169283); Allied Systems, Ltd. (L.P.) (58-1710028); Axis Areta, LLC (45-5215545); Axis Canada Company (875688228); Axis Group, Inc. (58-2204628); Commercial Carriers, Inc. (38-0436930); CT Services, Inc. (38-2918187); Cordin Transport LLC (38-1985795); F.J. Boutell Driveway LLC (38-0365100); GACS Incorporated (58-1944786); Logistic Systems, LLC (45-4241751); Logistic Technology, LLC (45-4242057); QAT, Inc. (59-2876863); RMX LLC (31-0961359); Transport Support LLC (38-2349563); and Terminal Services LLC (91-0847582). The location of the Debtors' corporate headquarters and the Debtors' address for service of process is 2302 Parklake Drive, Bldg. 15, Ste. 600, Atlanta, Georgia 30345.

² **Amended agenda items appear in bold.**

³ The hearing will be held before The Honorable Christopher S. Sontchi at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom 6, Wilmington, Delaware 19801. Any party who wishes to appear telephonically at the December 28, 2012 hearing must contact COURTCALL, LLC at 866-582-6878 prior to 10:00 a.m. (EST) on Friday, December 28, 2012 in accordance with the *Instructions for Telephonic Appearances Effective January 5, 2005, Revised April 27, 2009*. Copies of all pleadings referenced herein are available online, free of charge, at the following web address: <http://www.omnimgt.com/alliedsystems>.

Status: The hearing on this matter will go forward.

2. Debtors' Motion Pursuant to Section 364(c)(2) of the Bankruptcy Code for Authority to Enter into Insurance Premium Financing Agreement with IPFS Corporation [Docket No. 730; filed December 21, 2012]

Objection/Response Deadline: December 28, 2012 at 11:00 a.m. (EST).

Objections/Responses: None at this time.

Related Documents:

- i. Debtors' Motion to Shorten Notice and Obejction Periods for Motions to Enter into Insurance Premium Financing Agreements [Docket No. 731; filed December 21, 2012]
- ii. Order Shortening Notice and Objection Periods for Motions to Enter into Insurance Premium Financing Agreements [Docket No. 740; filed December 27, 2012]
- iii. **Notice of Hearing on "Motions to Enter into Insurance Premium Financing Agreements" and Objection Deadlines in Connection Therewith [Docket No. 742; filed December 27, 2012]**

Status: The hearing on this matter will go forward.

Dated: December 27, 2012
Wilmington, Delaware



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