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ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

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

In re)	
)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590-DML
)	Jointly Administered
Debtors.)	
)	Hearing Date and Time: To Be Set, if Necessary

**APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO 11 U.S.C. §§ 327(a)
AND 328 AUTHORIZING THE EMPLOYMENT AND RETENTION OF RYAN &
COMPANY, INC. AS SALES AND USE TAX CONSULTANTS TO THE DEBTORS**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”), as debtors-in-possession, file this Application for Entry of an Order Pursuant to 11 U.S.C. §§ 327(a) and 328 Authorizing the Employment of Ryan & Company, Inc. as Sales and Use Tax Consultants to the Debtors (the “Application”), and in support of this Application, respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Application pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. The Cases. On July 14, 2003 and various dates thereafter (collectively, the “Petition Date”), Mirant Corporation and 82 of its direct and indirect subsidiaries (collectively, the “Debtors”) filed voluntary chapter 11 petitions. The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of title 11 of the United States Code (the “Bankruptcy Code”).

3. The Cases are Jointly Administered. This Court has entered orders approving the joint administration of the Debtors’ chapter 11 cases.

4. The Committees. Three official committees (collectively, the “Committees”) have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases.

Retention of Ryan & Company

5. The Debtors request authorization to retain Ryan & Company, Inc. (“Ryan & Company”) as sales and use tax consultants, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, effective as of April 2, 2004.¹ The terms of Ryan & Company’s employment

¹ The Debtors notified the Court on March 11, 2004 that they would be filing this Application.

are set forth in the Engagement Letter, a true and correct copy of which is appended hereto as Exhibit 1.

6. The Debtors desire to retain Ryan & Company to provide sales and use tax consulting services related to the Debtors' multi-state sales and use tax obligations for all open periods through December 31, 2003. Specifically, Ryan & Company will assist the Debtors with a review of the Debtors' multi-state sales and use tax payment records to identify tax refund or tax reduction opportunities, which will include:

- A review and analysis of all documentation required in support of refund claims;
- Preparation of refund claim documentation required to be filed with state agencies and or Mirant vendors;
- Presentation, representation, and negotiation with state agencies and or vendors to secure refunds claimed;
- Preparation of redeterminations requests, if required, as well as representation, presentation and negotiations to state administrative officials in the event certain refunds are not allowed at the auditor level; and
- Preparation of a process improvement report to be presented to appropriate Debtor personnel identifying issues discovered during the course of Ryan & Company's work.

7. Ryan & Company will target and use tax reduction or refund opportunities to reduce the Debtors' multi-state sales and use tax liability. Ryan & Company is the largest independent state and local tax consulting firm of its kind in the United States, and has extensive knowledge of the sale and use tax throughout the United States.

8. Prior to reaching a decision to employ Ryan & Company, the Debtors approached several firms that the Debtors believe are competent to assist the Debtors in the sale

and use tax overpayment collection. The Debtors have determined that the terms and services offered by Ryan & Company best meet the needs of the Debtors.

9. The tax consulting services to be rendered by Ryan & Company will not be duplicative of the services rendered by any other of the Debtors' professionals retained in these chapter 11 cases. The Debtors will soon seek approval to retain a consulting company to assist the Debtors in collecting duplicate payments of vendor invoices, but those services will not relate to the collection of sales and use tax overpayments. Moreover, although KPMG and Deloitte & Touche are employed in these cases to render certain tax services, it is not within the scope of either of those firms' employment to collect sales and use tax overpayments. Nevertheless, the Debtors will carefully coordinate Ryan & Company's efforts with other professionals retained in these cases and ensure that there is no duplication of effort.

Compensation

10. Pursuant to section 328(a) of the Bankruptcy Code, the Debtors may retain Ryan & Company on any reasonable terms and conditions. Consistent with industry standards for this kind of service, the Debtors have agreed to compensate Ryan & Company pursuant to the following contingency fee arrangement: In the event that Ryan & Company obtains any tax refunds, credits, or reductions on behalf of the Debtors, the Debtors will pay Ryan & Company twenty five percent (25%) of such refunds, credits, or reductions (including reductions of auditor exceptions), including interest and penalties, that the Debtors receive or realize from taxing authorities and/or vendors. If an administrative hearing or other legal action is required to obtain any refund, credit, or reduction, Ryan & Company will be entitled to payment of forty percent (40%) of all refunds, credits, or reductions (including reductions of auditor exceptions),

including interest or penalties. In the event Ryan & Company is unable to obtain a refund, credit, or reduction, there will be no cost to the Debtors for Ryan & Company's services. Regardless of any recovery, Ryan & Company will be entitled to reimbursement of its reasonable expenses in connection with the engagement.

11. The Debtors believe that proposed terms and conditions of this engagement represent the most reasonable terms and conditions for the services contemplated to be rendered by Ryan & Company in a competitive market for tax consulting services. The Debtors further understand that the proposed terms and conditions of the engagement are reasonable and based upon industry standards. In sum, the Debtors believe that the fees charged by Ryan & Company are reasonable in light of (a) industry practice; (b) market rates charged for comparable services both in and out of the chapter 11 context; and (c) Ryan & Company's substantial experience in tax consulting.

Ryan Is A Disinterested Person

12. To the best of the Debtors' knowledge, information and belief, Ryan & Company represents no interest adverse to the Debtors or to their estates in the matters for which Ryan & Company is proposed to be retained, except as set forth herein and the affidavit of James M. Trester, a principal of Ryan & Company (the "Trester Affidavit"). The Trester Affidavit, executed on behalf of Ryan & Company in accordance with the provisions of section 327 of the Bankruptcy Code, Federal Rule of Bankruptcy Procedure 2014, Local Bankruptcy Rule 2016(b) and U.S. Trustee Guidelines, is incorporated herein by reference. The Debtors' knowledge, information and belief regarding the matters set forth in this Application are based, and made in reliance, upon the Trester Affidavit.

13. In addition, as set forth in the Trester Affidavit, Debtors submit that Ryan & Company (and its employees) is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, in that the firm, its partners and employees, to the best of their knowledge:

- a. are not creditors, equity security holders or insiders of the Debtors;
- b. are not and were not investment bankers for any outstanding security of the Debtors;
- c. have not been, within 3 years before the date of the filing of the Debtors’ chapter 11 petitions, (i) investment bankers for a security of the Debtors, or (ii) an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the Debtors;
- d. are not and were not, within 2 years before the date of the filing of the Debtors’ chapter 11 petitions, a director, officer, or employee of the Debtors or of an investment banker specified in subparagraph (b) or (c) of this paragraph, and
- e. do not have an interest materially adverse to the interest of the Debtors’ estates, or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors or an investment banker, specified in subparagraphs (b) or (c) of this paragraph, or for any other reason.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) approving the retention of Ryan & Company, Inc. as sales and use tax consultants for the Debtors pursuant to sections 327(a) and 328 of the Bankruptcy Code, and (ii) granting the Debtors such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 8th day of April, 2004.

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

Robin Phelan
State Bar No. 15903000

-and-

By: /s/ Michelle C. Campbell

Thomas E Lauria
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Michelle C. Campbell
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200 South Biscayne Blvd.
Miami, FL 33131
(305) 371-2700

ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION

CERTIFICATE OF SERVICE

The undersigned hereby certifies she has authorized BSI as service agent to cause to serve a true and correct copy of the foregoing document upon all parties on the Limited Service List via first class mail, postage prepaid, the 8th day of April 2004 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Michelle C. Campbell _____



State & Local Tax Services

Three Galleria Tower
13155 Noel Road
12th Floor, LB 72
Dallas, TX 75240-5090
Tel. 972.934.0022
Fax 972.960.0613
www.ryanco.com

March 15, 2004

Mr. Brian P. Kramschuster
Director of Tax Operations
Mirant Corporation
Tax Department
4th Floor
1155 Perimeter Center West
Atlanta, Georgia 30338-4780

Re: National Sales and Use Tax Services

Dear Brian:

Thank you very much for the opportunity to assist you with minimizing the multi-state sales and use tax liability of Mirant Corporation and certain of its affiliates ("Mirant"). As discussed, this letter (the "Agreement") outlines the terms and conditions of our engagement to assist Mirant with a multi-state sales and use tax review.

ENGAGEMENT SCOPE

Ryan & Company, Inc. ("Ryan & Company") will assist Mirant with a review of Mirant's multi-state sales and use tax payment records to identify tax refund and/or tax reduction opportunities. Ryan & Company understands that Mirant and certain of its affiliates are chapter 11 debtors in cases pending in the United States Bankruptcy Court for the Northern District of Texas, Fort Worth Division, and that this Agreement is subject to Bankruptcy Court approval.

Our approach is specifically designed to target tax refund and/or tax reduction opportunities and use these opportunities to reduce Mirant's multi-state sales and use tax liability, without significant assistance or effort from personnel at Mirant. We will perform this service for the following entities and/or locations:

Mirant Corporation and related subsidiaries / National Operations

Ryan & Company acknowledges that the Georgia review for Mirant Services, L.L.C., Southern Energy Resources, Inc and Mirant Americas Energy Marketing, LP, is a follow-up review behind other service providers retained by Mirant, and specifically excludes refunds identified by such previous review. Mirant agrees to provide detailed schedules of these credits within 30 days of the completion of the fieldwork by other service providers, provided, however, it is understood and agreed that Mirant shall not provide any information to the extent that it would violate any confidentiality agreement or understanding between Mirant and other service providers.

Mr. Brian Kramschuster
Mirant Corporation
March 15, 2004
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Our engagement will include a review of audit exceptions scheduled by each state agency, if applicable, after Mirant's third party service provider or Mirant's own tax, finance, or accounting department personnel have completed their own internal audit review. Our review of scheduled audit exceptions will begin only after receiving express authorization from Mirant. Nothing herein shall be construed to require Mirant to extend such authorization. All requests for refunds, credits, or reductions made by Ryan & Company are subject to Mirant's approval, as Mirant in its sole discretion shall determine.

The scope of this Agreement also includes, but is not limited to the following:

- Review, analysis, and copying of all documentation required in support of refund claims.
- Preparation of refund claim documentation required to be filed with state agencies and or Mirant vendors.
- Presentation, representation, and negotiation with state agencies and or vendors to secure refunds claimed.
- Preparation of redeterminations requests, if required, as well as representation, presentation and negotiations to state administrative officials in the event certain refunds are not allowed at the auditor level.
- Preparation of a process improvement report to be presented to appropriate Mirant personnel identifying issues discovered during the course of our work.

ENGAGEMENT PERIOD

Our review will cover all periods open by law through December 31, 2003.

ELECTRONIC DATA FILES

Mirant agrees to provide electronic data files to Ryan & Company that will facilitate the identification and location of records to be reviewed. Ryan & Company generally utilizes accounts payable and sales and use tax accrual data in text/ASCII files, DBF files, or spreadsheet files. Ryan & Company will assist Mirant information systems personnel with determining the appropriate system file layouts, required data fields, file types, and transfer media. Any out-of-pocket costs of preparing, modifying, or transferring such data will be the responsibility of Ryan & Company.

RESPONSIBILITIES

This service will be conducted under the supervision of Mr. James M. Trester, Principal. Mr. Trester will serve as project manager for this engagement and will be responsible for staffing, project coordination, technical direction, and related issues. Additionally, throughout the course of this engagement, all work will be scheduled to avoid interruption to Mirant's normal business operations, as Mirant in its sole discretion shall determine.

Mr. Brian Kramschuster
Mirant Corporation
March 15, 2004
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COMPENSATION

In the event Ryan & Company obtains any tax refunds, credits, or reductions, Mirant agrees to pay Ryan & Company and hereby assigns to Ryan & Company, as compensation for this service, twenty-five percent (25%) of any tax refunds, credits, or reductions, including interest and penalties, that Mirant actually receives from taxing authorities and/or vendors.

Mirant agrees that Ryan & Company has the right to engage legal counsel, at Ryan & Company's sole expense, to represent Mirant, subject to Mirant's approval, as Mirant in its sole discretion shall determine. In the event Ryan & Company obtains any refunds, credits, or reductions as a result of an administrative hearing or other legal action, Mirant agrees to pay Ryan & Company and hereby assigns to Ryan & Company, as compensation for this service, forty percent (40%) of any tax refunds, credits, or reductions, including interest and penalties, that Mirant actually receives as a result of such administrative hearing or other legal action. In the event no tax refunds, credits, or reductions are obtained, no fee will be due.

Our fee will be invoiced upon verification by the taxing authority, if applicable, and is due and payable within thirty (30) days of actual receipt by Mirant of any refunds, credits, or reductions of any audit assessment. Mirant agrees to pay interest of one and one-half percent (1 ½ %) per month on any fees remaining unpaid thirty (30) days after the actual receipt of any refunds, credits, or reductions.

Ryan & Company understands that Mirant will seek Bankruptcy Court approval of the compensation terms of this engagement pursuant to section 328(a) of the Bankruptcy Code.

INTEGRITY & CONFIDENTIALITY

We guarantee that all matters associated with the professional services we render will be directed with the highest degree of professional integrity. Accordingly, all information that Mirant makes available to Ryan & Company shall be considered confidential, proprietary information and Ryan & Company shall not disclose such information to any third party except as required in fulfilling duties described by this Agreement or to comply with an official order of a court of law.

Additionally, Mirant agrees that Ryan & Company's work product, including specific engagement procedures, techniques, and tax saving strategies, constitute confidential, proprietary information and Mirant further agrees not to disclose such information to any third party without obtaining prior written approval from Ryan & Company. This Agreement does not include information independently developed by Mirant, information previously known to Mirant, or information rightfully received by Mirant from a third party without confidential limitations.

Mr. Brian Kramschuster
Mirant Corporation
March 15, 2004
Page 4

LAW GOVERNING AGREEMENT

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. Ryan & Company understands that the United States Bankruptcy Court for the Northern District of Texas has exclusive jurisdiction over any dispute with respect to this engagement.

BANKRUPTCY COURT APPROVAL

Mirant agrees to cooperate with Ryan & Company and to cause its bankruptcy counsel to cooperate with Ryan & Company to promptly prepare and file an Application with the Bankruptcy Court to appoint Ryan & Company as Sales and Use Tax Consultants, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, to provide the State & Local Tax Consulting Services specified in this Agreement and to be compensated as provided in this Agreement.

ACKNOWLEDGMENT

Thank you for the opportunity to assist you with this project. If the above terms and conditions meet with your approval, please sign and return the enclosed copy of this Agreement at your convenience. Upon acceptance, we will contact you to arrange a mutually acceptable time to begin our review. If you have any questions, or if you would like to discuss this Agreement further, please contact Mr. James M. Trester at 972.934.0022.

RYAN & COMPANY, INC.:

By: 
Date: 3-15-04

MIRANT CORPORATION:

By: 
Date: 4/02/04

consulting services to assist the management of Mirant with minimizing multi-state sales and use tax liabilities of Mirant. Specifically, Ryan & Company will assist the Debtors with a review of the Debtors' multi-state sales and use tax payment records to identify tax refund or tax reduction opportunities, which will include:

- A review and analysis of all documentation required in support of refund claims;
- Preparation of refund claim documentation required to be filed with state agencies and or Mirant vendors;
- Presentation, representation, and negotiation with state agencies and or vendors to secure refunds claimed;
- Preparation of redeterminations requests, if required, as well as representation, presentation and negotiations to state administrative officials in the event certain refunds are not allowed at the auditor level; and
- Preparation of a process improvement report to be presented to appropriate Debtor personnel identifying issues discovered during the course of Ryan & Company's work.

4. Ryan & Company's approach to our services is specifically designed to target tax refund and/or tax reduction opportunities to reduce Mirant's multi-state sales and use tax liabilities.

5. Ryan & Company and certain of its shareholders and officers have in the past, currently and may in the future provide state & local tax consulting services in the ordinary course of business to certain of the companies that currently or in the future may be creditors or claimants of Mirant. However such state & local tax services are wholly unrelated to the state & local tax services that Ryan & Company desires to provide Mirant and will not, in the good faith opinion of Ryan & Company, represent an interest materially adverse to the Debtors, their

estates, their creditors or any other party in interest herein or their attorneys or accountants in the matters for which Ryan & Company is proposed to be engaged.

6. Insofar as I have been able to ascertain, Ryan & Company and its employees:

- (a) Are not creditors, equity security holders, or insiders of Debtors;
- (b) Are not and were not an investment banker for any outstanding security of debtors;
- (c) Have not been, within three (3) years before the date of the filing of Debtors' chapter 11 petitions, (i) an investment banker for a security of Debtors, or (ii) an attorney for such investment banker in connection with the offer, sale, or issuance of a security of Debtors;
- (d) Are not and were not, within two (2) years before the date of the filing of Debtors' chapter 11 petitions, a director, officer, or employee of Debtors or of any investment bankers as specified in subparagraph (b) or (c) of this paragraph; and
- (e) Do not have an interest materially adverse to the interest of the estates or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, Debtors or any investment banker as specified in subparagraph (b) or (c) of this paragraph, or for any other reason.

7. To the best of my knowledge, Ryan & Company and its employees do not have any relation to or connection with any judge of this Court or with the United States Trustee for this region or any person employed in the Office of the United State Trustee.

8. Ryan & Company has not shared or agreed to share with any other person the compensation paid or to be paid by Debtors in connection with the Chapter 11 Cases.

9. The foregoing constitutes the statement of Ryan & Company pursuant to Section 327 of the Bankruptcy Code and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure.

James Trestler

JAMES TRESTER

Sworn to and Subscribed
before me this 8th day of
~~March, 2004~~

April
Cheryl Wiggins

NOTARY PUBLIC

My Commission Expires: 12/3/05

