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PROPOSED ATTORNEYS FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MIRANT AMERICAS GENERATION, LLC.

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

In re)	Chapter 11 Case
)	
MIRANT CORPORATION, et al.,)	Case No. 03-46590 (DML)
)	
Debtors)	Jointly Administered

LIMITED OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF MIRANT AMERICAS GENERATION, LLC TO THE APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO SECTION 327(a), 328(a) AND 504 OF THE BANKRUPTCY CODE AND RULE 2014 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AUTHORIZING THE EMPLOYMENT AND RETENTION OF THE BLACKSTONE GROUP L.P. AS FINANCIAL ADVISORS FOR THE DEBTORS

**TO: THE HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE**

The Official Committee of Unsecured Creditors of Mirant Americas Generation, LLC (“MAGI”) (the “MAGI Committee”), hereby submits this limited objection to the *Application for Entry of an Order Pursuant to Section 327(a), 328(a) and 504 of the Bankruptcy Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure Authorizing the Employment and Retention of The Blackstone Group L.P.* (“Blackstone”) as *Financial Advisors for the Debtors* (the “Blackstone Application”). In support of this limited opposition, the MAGI Committee respectfully represents as follows:

Introduction

1. By the Blackstone Application, Mirant Corporation (“Mirant”) and its affiliated debtors (collectively, the “Debtors”) seek to have this Court approve the employment of Blackstone as their financial advisors. According to the Blackstone Application, Blackstone will charge a \$7,000,000 “restructuring fee” due upon confirmation of a plan of reorganization (the “Blackstone Restructuring Fee”). Moreover, the Debtors proposed crisis managers, AP Services, LLC (“APS”), is also requesting a \$5,000,000 “success fee” due upon confirmation of a plan of reorganization (the “APS Success Fee”).

2. The MAGI Committee does not object in principal to the Blackstone Application. Rather, the MAGI Committee submits this limited objection for the purposes of reserving their right to object to the restructuring fee of \$7 million for Blackstone until further information is made available to the MAGI Committee regarding these performance fees, and any other similar fee arrangements the Debtors may wish to enter into.

Factual Background

The Bankruptcy Cases

3. On July 14, 2003, Mirant and various affiliates, including MAGI, commenced proceedings under Chapter 11 of the Bankruptcy Code by filing a petition for relief in this Court.

4. On July 25, 2003, the United States Trustee appointed separate committees of unsecured creditors for each of the Mirant and MAGI estates.

5. The Debtors are currently managing their financial affairs and business operations as debtors in possession under the Bankruptcy Code. No trustee or examiner has been appointed in these cases. The Court has ordered joint administration of the bankruptcy estates of the Debtors.

The Application to Employ Blackstone

6. On July 17, 2003, the Debtors filed the Blackstone Application. According to the Application, in October 2002, the Debtors retained Blackstone to assist them in connection with their restructuring efforts. Blackstone has provided advice to the Debtors since that time and the Debtors desire Blackstone to continue to provide such services. As set forth in the Application, Blackstone received \$2,523,120.48 from the Debtors, pre-petition.

7. On August 13, 2003, an Interim Order was entered (A) Authorizing Debtors and Debtors In Possession to Retain and Employ the Blackstone Group L.P. as Financial Advisors, and (B) Approving Proposed Fee Structure (the “Blackstone Interim Order”). The Blackstone Interim Order provisionally permitted the retention of Blackstone and approved its monthly fee arrangement. The Interim Order did not approve the indemnification provision or the Blackstone Restructuring Fee.

8. The Blackstone Interim Order also requires the Debtors, prior to Blackstone’s permanent retention, verify that (i) Blackstone requires terms substantially similar to the indemnification provisions and Success Bonus in connection with its employment by clients other than the Debtors; and (ii) Debtors, after a diligent investigation, were unable to find a person or entity with capabilities comparable to Blackstone who was willing to be employed on terms less onerous than those set forth in the Indemnification provisions.

9. Specifically, pursuant to the Blackstone Application, in addition to its monthly fee of \$225,000, Blackstone will receive an “additional” Restructuring Fee “equal to \$7 million.” (Blackstone App., ¶15b) There is a conflict between the engagement letter and the Application as to when such a payment is due and payable. The Application states that it is due when the offering document is sent out (though it is payable upon confirmation) and the Blackstone Engagement Letter attached to the Application provides that it is due and payable upon confirmation. (Blackstone App., ¶15b; Blackstone Engagement Ltr., Exhibit 1, p. 4)

The Trustee Comment and The Mirant Committee Limited Objection

10. On August 11, 2003, the United States Trustee for the Northern District of Texas filed a Comment to the APS Application. Specifically, the United States Trustee expressed a concern that APS’s requested \$5,000,000 success fee duplicates Blackstone’s \$7,000,000 restructuring bonus. The United States Trustee requested that reasonableness of such fees should be demonstrated to the Court.

11. Also, on August 11, 2003, the Official Committee of Unsecured Creditors of Mirant (the “Mirant Committee”) filed a Limited Objection to the Blackstone Application. The Mirant Committee sought clarification regarding the inconsistency between the Blackstone Application and the Blackstone Engagement Letter concerning when Blackstone is entitled to the Blackstone Restructuring Fee. The Mirant Committee further sought clarification that the broad language of ¶9(b) of the Blackstone Application, providing that Blackstone “will assist and advise the Debtors concerning the terms, conditions and impact of any transaction” will be subject to and not override the terms of the Blackstone Engagement Letter.

LIMITED OBJECTION

12. The MAGI Committee objects to the retention of Blackstone on the limited grounds that the MAGI Committee seeks additional information into the proposed bonus structures set forth in the Blackstone Application. In particular, while the MAGI Committee has no objection to the retention of Blackstone under §327 of the Bankruptcy Code, the MAGI Committee has not yet had the opportunity to receive adequate information in order to fully understand the proposed compensation for all of the Debtors' professionals, in general, including whether the Blackstone Restructuring Fee is appropriate under §330 of the Bankruptcy Code.

13. Moreover, the Debtors will likely be seeking to employ additional professionals. Therefore, the MAGI Committee seeks to reserve its rights and to object once the Debtors fully know the aggregate amount of all bonuses for all professionals that the Debtors may seek to retain.

14. Accordingly, until the Debtors provide the MAGI Committee with the appropriate information that will enable the MAGI Committee to properly assess the aggregate bonus or success fees that will be charged by all the professionals that are to be employed by the Debtors, the MAGI Committee objects to the final retention of Blackstone.

CONCLUSION

WHEREFORE, the MAGI Committee respectfully requests that this Court withhold final approval of the \$7 million restructuring fee as described in the Blackstone Application and such other and further relief as may be just and proper.

Respectfully submitted,

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**PROPOSED ATTORNEYS FOR THE OFFICIAL
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MIRANT AMERICAS GENERATION, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of August, 2003, a true and correct copy of the above and foregoing *Limited Objection* was served by electronic mail to the parties listed below and by United States First Class Mail on the parties on the Limited Service List.

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