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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 CB RICHARD
ELLIS, INC. AS REAL ESTATE BROKER 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 CB Richard Ellis, Inc. as real estate broker 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. Commencing on July 14, 2003, and concluding in the early morning hours of July 15, 2003, (the “Petition Date”), certain of the Debtors (collectively, the “Initial Debtors”) filed voluntary petitions in this Court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the “Bankruptcy Code”).¹ On August 18, 2003, Mirant EcoElectrica Investments I, Ltd. and Puerto Rico Power Investments, Ltd. (collectively, the “New Debtors”) commenced chapter 11 cases under the Bankruptcy Code. On October 3, 2003, the following additional Debtors filed voluntary petitions in this Court for relief under chapter 11: (i) Mirant Wrightsville Management, Inc.; (ii) Mirant Wrightsville Investments, Inc.; (iii) Wrightsville Power Facility, L.L.C.; and (iv) Wrightsville Development Funding, L.L.C. (collectively, the “Wrightsville Debtors”). On November 18, 2003, the following additional Debtors filed voluntary petitions in this Court for relief under chapter 11: (i) Mirant Americas Energy Capital, LP; and (ii) Mirant Americas Energy Capital Assets, LLC (the “MAEC Debtors” and collectively with the Initial Debtors, the New Debtors, and the

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the “Canadian Debtors”) to commence plenary insolvency proceedings (the “Canadian Proceedings”) in the Court of Queen’s Bench of Alberta Judicial District of Calgary (the “Canadian Court”) pursuant to the *Companies’ Creditors Arrangement Act*. The Canadian Debtors are subject to the sole and exclusive jurisdiction of the Canadian Court.

Wrightsville Debtors, the “Debtors”). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Cases are Jointly Administered. On July 15, 2003, this Court granted the motion for an order requesting that the bankruptcy estates of the Initial Debtors be jointly administered. On September 8, 2003, this Court entered an order approving joint administration of the cases of the New Debtors with those of the Initial Debtors. On October 20, 2003, this Court entered an order approving the joint administration of the cases of the Wrightsville Debtors with those of the Initial Debtors. On November 20, 2003, this Court entered an order approving the joint administration of the cases of the MAEC Debtors with those of the Initial Debtors.

4. The Committees. Three official committees have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases. Specifically, an official unsecured creditors’ committee and an official committee of equity security holders have been appointed for Mirant Corporation and an official unsecured creditors’ committee has been appointed for Mirant Americas Generation, LLC (collectively, the “Committees”).

FACTUAL BACKGROUND

5. Mirant and its direct and indirect subsidiaries comprise a competitive energy concern that generates and sells electricity in North America, the Philippines and the Caribbean. Through its direct and indirect subsidiaries, Mirant produces, sells and delivers reliable energy products and services to utilities, municipal systems, aggregators, electric-cooperative utilities, producers, generators, marketers and large industrial customers. Mirant’s

core business centers on the production and sale of electricity and electrical capacity (essentially the ability to produce electricity on demand). Mirant currently owns or controls more than 21,800 megawatts of electric generating capacity around the world, of which more than 18,000 megawatts is located in the United States. In 2002, Mirant produced 73 million megawatt-hours of electricity, sold 312 million megawatt-hours of electricity and sold or marketed an aggregate average of 21 billion cubic feet per day of natural gas.

6. Mirant employs thousands of employees worldwide, some of whom are based at Mirant's corporate headquarters in Atlanta and most of whom are based at operating facilities. In 2002, Mirant recorded \$542 million loss in earnings before interest, taxes and depreciation ("EBITDA") on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

Retention of CB Richard Ellis, Inc.

7. By this Application, the Debtors seek to employ and retain CB Richard Ellis, Inc. ("CB") as real estate broker to the Debtors. Pursuant to sections 327(a) and 328 of the Bankruptcy Code, the Debtors request that the Court approve the retention of CB as their real estate broker to aid the Debtors in negotiations with respect to their headquarters lease in Atlanta, Georgia.

8. The Debtors are headquartered at 1155 Perimeter Center West, where they lease a 67,000 square foot trading center and a 300,00 square foot office tower. In connection with the formulation of their business plan, the Debtors anticipate that the quantity and type of space needs will change, necessitating a possible renegotiation of the current lease or relocation

to a new property. The Debtors have determined to retain the services of CB, a nationally respected commercial real estate firm, to assist them in the renegotiation/relocation process.

9. CB is the global leader in commercial real estate. With approximately 14,000 employees in approximately 250 offices across 48 countries, CB completes more successful transactions each year – with clients from the gamut of industries – than any other firm in the world.

10. The Debtors anticipate that CB will render the following services in connection with this retention: (1) Establish specifications of the Debtors' headquarters space needs; (2) Identify and qualify alternative locations; (3) Develop and negotiate market-based economic terms; (4) Establish a letter of intent; (5) Negotiate with the current landlord to reduce leased space to the Debtors' requirements and reduce the rate of the remaining space to market terms; and (6) Negotiate the final lease with either the current or new landlord.

11. Pursuant to section 328(a) of the Bankruptcy Code, the Debtors may retain CB on any reasonable terms and conditions. Consistent with industry standards and practice, as compensation, CB typically receives between a 3% and 6% commission based upon the total amount paid by the tenant throughout the lease term. In this instance, CB will receive a commission equal to 3% of the total amount payable for the specified new lease term, payable and contingent upon the close of the transaction. In addition, CB will be entitled to reimbursement of its reasonable expenses in connection with the engagement.

12. The Debtors submit that the most reasonable terms and conditions are the commissions being charged by CB to the Debtors in a competitive market for real estate brokerage services. The Debtors submit that the proposed retention upon the terms and

conditions set forth herein are reasonable and based upon industry standards. In sum, the Debtors believe that the commissions to be charged by CB 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) CB's substantial experience in real estate brokerage.

13. For the reasons stated in this Application and in the Affidavit of Randy Merrill (the "Merrill Affidavit"), the Debtors believe that it would be appropriate, efficient and advantageous for CB to advise them in connection with the matters described in this Application.

14. The Debtors believe that the real estate brokerage services to be rendered by CB will not be duplicative of the services rendered by any other of the Debtors' professionals retained in these chapter 11 cases. Nevertheless, CB will carefully coordinate its efforts with bankruptcy counsel and other professionals retained by the Debtors and make sure that its actions are not duplicative of the actions undertaken by the Debtors' other professionals.

15. The Debtors believe that the engagement of CB, as real estate broker, to render the foregoing professional services is necessary and appropriate. CB has stated its desire and willingness to act in these cases and render the necessary professional services as real estate broker for the Debtors. To the best of the Debtors' knowledge, CB and its partners, employees and associates do not have any connection with or any interest adverse to the Debtors, their creditors, or any other party in interest, or their respective attorneys and accountants, in the matters on which it is being retained except as may be set forth in the Merrill Affidavit.

Disinterestedness of CB

16. To the best of the Debtors' knowledge, information and belief, CB represents no interest adverse to the Debtors or to their estates in the matters for which CB is

proposed to be retained, except as set forth herein and in the Merrill Affidavit. The Merrill Affidavit, executed on behalf of CB 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 said affidavit.

17. In addition, as set forth in the Merrill Affidavit, Debtors submit that CB 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.

18. The Debtors firmly believe that CB is the most qualified firm to represent the Debtors with respect to the matters on which it has been engaged.

NOTICE

19. Notice of this Application has been served on the Limited Service List, as approved by the Court. The Debtors submit no other or further notice be given.

20. No previous request for relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order (i) approving the retention of CB Richard Ellis as Real estate broker 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 26th day of November, 2003.

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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 26th day of November 2003 in accordance with the Federal Rules of Bankruptcy Procedure.

/s/ Michelle C. Campbell

Establish specifications of the Debtors' headquarters space needs; (2) Identify and qualify alternative locations; (3) Develop and negotiate market-based economic terms; (4) Establish a letter of intent; (5) Negotiate with the current landlord to reduce leased space to the Debtors' requirements and reduce the rate of the remaining space to market terms; and (6) Negotiate the final lease with either the current or new landlord.

3. It is the intention of Debtors that the functions to be performed by CBRE will not be duplicative of those performed by Debtors' other professionals, but CBRE will only perform those services necessary for Debtors to be represented in these Chapter 11 Cases while continuing to operate their businesses and manage their properties as debtors-in-possession.

4. Neither I nor CBRE, insofar as I have been able to ascertain, has any connection with Debtors, their creditors, or any other party-in-interest herein, or their respective attorneys or accountants, except as follows: CBRE, an international real estate services company with 14,000 employees in nearly 250 offices in 48 countries, has, had or may in the future have, business relationships with one or more of the entities involved in this proceeding, and may in the future represent entities which are claimants herein in matters totally unrelated to these pending Chapter 11 Cases. CBRE's clients include many institutions and commercial corporations, some of which may be creditors or otherwise involved in these Chapter 11 proceedings. For example, a review of the notice list and other lists provided by Debtors' counsel identifies numerous companies with whom CBRE has conducted business in the past and is conducting business presently, including, for example, Allstate, Citibank, Fleet, First Union and John Hancock. None of CBRE's services to those or any other entities, to my knowledge, have any relationship to Debtors or Debtors' Chapter 11 cases.

5. Insofar as I have been able to ascertain, CBRE and its licensed real estate professionals responsible for providing the services set forth in the Listing:

- (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.

6. To the best of my knowledge, CBRE 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.

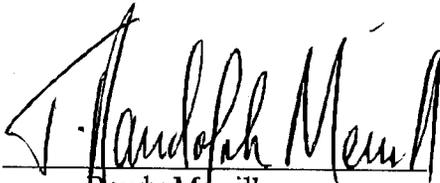
7. I am advised that professionals (such as CBRE) retained by Debtors are required to apply for compensation for professional services to be rendered in connection with these Chapter 11 Cases and for reimbursement of expenses incurred, in accordance with applicable provisions of the Bankruptcy Code.

8. However, because of the commission based structure of CBRE's fee and the nature of the services to be provided by CBRE, I respectfully request that :

- (a) CBRE be relieved of the obligation to maintain time records, (which it does not maintain in the usual course of its business) and
- (b) Inasmuch as CBRE will be entitled to its commission if, and only if, the lease is fully executed, CBRE requests that the Order of this Court authorizing Debtors to retain CBRE and provide that the commission shall be paid if, and only if, the lease is fully executed, and, unless there is an objection by any creditors or interested party, that it be paid as an administrative expense without the necessity of further court order.

9. CBRE 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, other than pursuant to normal compensation arrangements with its licensed real estate professionals, or with any co-broker who may procure a buyer for the Property, in accordance with the terms of the Listing.

10. The foregoing constitutes the statement of CBRE pursuant to Section 327 of the Bankruptcy Code and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure.


Randy Merrill

Sworn to and Subscribed
before me this day of
November, 2003



NOTARY PUBLIC

My Commission Expires: 5/19/07

