

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	Chapter 11
)	
SWOOZIE’S, INC., ¹)	Case No. 10-66316-CRM
)	
Debtor.)	

**DEBTOR’S APPLICATION FOR AN ORDER APPOINTING EPIQ
BANKRUPTCY SOLUTIONS, LLC AS CLAIMS AND NOTICING AGENT**

Swoozie’s, Inc., a Delaware corporation (“**Debtor**”) hereby files this application (the “**Application**”) seeking the entry of an order authorizing and approving the appointment of Epiq Bankruptcy Solutions, LLC (“**Epiq**”) as claims and noticing agent for the Court and Clerk of Court pursuant to Section 156(c) of Title 28 of the United States Code (the “**Judicial Code**”), Section 341 of Title 11 of the United States Code (the “**Bankruptcy Code**”), and Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”). In support of this Application, Debtor submit the Declaration of Daniel C. McElhinney, Executive Director of Epiq (the “**McElhinney Declaration**”), a copy of which is attached hereto as “Exhibit 2” and incorporated by reference herein.

I. GENERAL BACKGROUND

1. On the date hereof (the “**Petition Date**”), Debtor commenced a voluntary case under Chapter 11 the Bankruptcy Code. Debtor is authorized to operate its business and manage its properties as Debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

¹ The last four digits of Debtor’s taxpayer identification number are 5738 and Debtor’s mailing address is 80 W. Wieuca Road, Suite 302, Atlanta, GA 30342.

A. Debtor's Business

2. Debtor is a specialty retailer focusing on the art of giving, home entertaining and life celebrations. Debtor offers a broad combination of products and services ranging from invitations and custom printing to housewares and party goods. Founded in 1999 and based in Atlanta, Georgia, Debtor employs 350 employees in 43 stores and a corporate headquarters. Debtor opened its first store in February 2001 and now operates stores in 14 states across the Southeast, Northeast, Texas and California.

B. Events Leading to Chapter 11

3. There are three major contributing factors to Debtor's lowered sales results. First, in February 2009, Debtor entered the Northeast market through its purchase of 13 Blue Tulip stores, a chain of stores specializing in similar gift and social stationery consumer segments, out of bankruptcy. The impact of Blue Tulip's liquidation sale and the stores going "dark" for one month prior to the grand opening of the Swoozie's brand in the previous Blue Tulip locations had a deeper impact on customer retention than was anticipated. The assumptions for Debtor's 2009 sales plan predicted that sales in the Northeast would reach an estimated \$12.8 Million, however, actual resulting sales figures were approximately \$8.5 Million, missing the target numbers by over \$4 Million.

4. Second, around the same as Debtor's purchase of the Blue Tulip stores, there was a seismic shift in the economy which was especially felt in Debtor's industry. Consumer behavior drastically changed as consumers pulled back on spending associated with paper, invitations, party goods, life celebrations and home accessories. Debtor's industry as a whole has been affected by the changing economic climate and resulting

changes in consumer behavior. By way of example, as of December 2009, sales for manufacturers of paper and invitations were off target by approximately 28 percent nationwide, and approximately 35 percent in the Northeast.

5. Finally, in the second quarter of 2009, Debtor had the opportunity to improve its sales figures as new categories of products were tested to offset the decline in consumer desire for paper and invitations, and those new products performed exceptionally well. However, to realize the opportunity for growth, Debtor required capital and, accordingly, sought a loan from a number of sources, including Wells Fargo Capital Finance (“**Wells Fargo**”).

6. Debtor and Wells Fargo were in the process of closing the loan in the third quarter of 2009 when a number of negative converging factors, the most notable of which was the loss of Debtor’s Chief Financial Officer and Chief Operating Officer (the “**CFO/COO**”), delayed the closing of the loan. Due to this delay and the loss of Debtor’s CFO/COO, Debtor operated without a CFO/COO from July 2009 through November 2009 and was not able to properly keep control of its inventory and related business finances. Furthermore, because the capital infusion was delayed, Debtor was unable to purchase new inventory or timely pay its vendors for delivered product. As a result, Debtor’s sales missed targets by \$2.2 Million.

7. While Debtor did eventually close the loan with Wells Fargo in October 2009, the damage associated with the delay was irreparable. Debtor’s inability to react to trend, aging inventory and a delayed holiday set-up of over four weeks resulted in Debtor’s worst performance in its history.

8. Given its losses in the third and fourth quarters of 2009, combined with the uncertainty facing the U.S. economy and the lack of consumer spending, Debtor cannot sustain further projected losses. In order to maximize return to all creditors through a sale, whether as a going-concern or through an orderly liquidation, Debtor decided to file the instant Chapter 11 case.

9. Additional information about Debtor's business and the events leading up to the commencement of Debtor's bankruptcy case (the "**Bankruptcy Case**") can be found in the Declaration of Kelly Plank-Dworkin in Support of Chapter 11 Petition and First Day Motions ("**Plank-Dworkin Declaration**"), which was filed contemporaneously herewith and is incorporated by reference.

C. Facts in Support of Requested Relief

10. Debtor's operations are conducted across fourteen states. Given the nature of Debtor's business and the number of creditors involved, Debtor expects thousands of claims. As a result of Debtor's limited staffing and the costs associated with noticing claims, having a third party, other than counsel, administer the claims administration, balloting procedures, and notice matters in this bankruptcy case is in the best interest of Debtor's estate.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this case and this Application in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

III. REQUEST FOR RELIEF

A. Cause Exists to Appoint a Claims and Notice Agent

12. Through this Application, Debtor seeks authority to retain Epiq on the terms and conditions set forth in that certain Standard Services Agreement, dated February 25, 2010 (the “**Agreement**”) attached hereto as “Exhibit 1.” Specifically, Debtor requests authority for Epiq to act as the Claims and Noticing Agent for this bankruptcy case. In particular, and as more fully described in Exhibit A to the Agreement, Debtor requests authority for Epiq to perform the following services:²

- a. Prepare and serve required notices in this bankruptcy case, including
 - (1) A notice of the commencement of this case and the initial meeting of creditors under Section 341(a) of the Bankruptcy Code;
 - (2) A notice of the claims bar date;
 - (3) Notices of any hearing on a disclosure statement and confirmation of a Chapter 11 plan; and
 - (4) Such other notices as Debtor or the Court may deem necessary or appropriate for an orderly administration of this case.
- b. Within five (5) business days after the service of a particular notice, file or arrange to have filed with the Clerk’s Office a declaration of service that includes
 - (i) an alphabetical list of persons on whom Epiq served the notice, along with their addresses, and (ii) the date and manner of service;
- c. Maintain an official claims register by receiving and docketing all proofs of claim and proofs of interest in a claims database that includes the following information for each such claim or interest asserted:

² To the extent that this Application and the terms of the Agreement are inconsistent, the terms of the Agreement shall control.

- (1) The name and address of the claimant or interest holder and any agent thereof, if the proof of claim or proof of interest was filed by an agent;
 - (2) The date that the proof of claim or proof of interest was received;
 - (3) The claim number assigned to the proof of claim or proof of interest; and
 - (4) The asserted amount and classification of the Claim.
- d. Implement necessary measures and procedures to ensure the completeness, accuracy, and integrity of the claims register as approved by the Clerk of Court;
 - e. Periodically audit the claims information to assure the Clerk of Court that claims information is being accurately recorded and reflected;
 - f. Allow the Clerk of Court to independently audit the claims information during regular business hours;
 - g. Mail a notice of the bar date approved by the Court for the filing of a proof of claim and a form for filing of a proof of claim to each creditor notified of the filing, or subsequently discovered;
 - h. Transmit to the Clerk of Court a copy of the claims register on a monthly basis or at such other interval as the Clerk of Court may direct;
 - i. Maintain an up-to-date mailing list for all entities that have filed proofs of claim or proofs of interest and make such list available upon request to the Clerk of Court or any party in interest;³

³ Epiq shall also maintain a website specifically for Debtor's bankruptcy case from which anyone may download the claims register and other relevant information and documents pertaining to Debtor's bankruptcy case. The website address will be: <http://dm.epiq11.com/swoozies>.

- j. Provide the public and the Clerk of Court access to copies of the proofs of claim or proofs of interest filed in this case without charge during regular business hours;
- k. Record all transfers of claims pursuant to Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Bankruptcy Rule 3001(e);
- l. Comply with applicable federal, state, municipal and local statutes, ordinances, rules, regulations, orders and other requirements;
- m. Promptly comply with such further conditions and requirements as the Clerk of Court or the Court may at any time prescribe; and
- n. Provide such other claims processing, noticing, balloting, and related administrative services as may be requested from time to time by Debtor.

13. Management consulted with their legal advisors, who, after consultations with others in their firms, determined that based on the size, scope, and geography of the case, Epiq was the appropriate choice. Given their work together in other cases, Debtor's advisors were also able to secure extremely competitive pricing from Epiq for these services. Epiq has been retained in large and complex cases filed in this Court as well as other courts across the country. Debtor believes in its business judgment, that Epiq has the necessary experience and expertise to render the necessary services in a professional and efficient manner in accordance with the Bankruptcy Rules. The compensation to be provided by Debtor to Epiq for services rendered is set forth in the fee schedule included in "Exhibit B" attached to the Agreement. Debtor believes that such compensation is fair and reasonable. Epiq's fees shall be at the expense of Debtor's estate and shall be paid directly by Debtor and its estate in the ordinary course of business as administrative

expenses of Debtor's Chapter 11 estate. No fee application or other filing with this Court will be required.

14. Debtor has a number of creditors, and accordingly, Epiq may have rendered and may continue to render services to certain of these creditors. Epiq has not and will not represent the separate interests of any such creditor in this case. Additionally, Epiq's employees may, in the ordinary course of their personal affairs, have relationships with certain creditors of Debtor. For example, one or more of Epiq's employees may have obligations outstanding with financial institutions that are creditors of Debtor.

15. Although Debtor is not seeking to retain Epiq under Section 327 of the Bankruptcy Code, to the best of Debtor's knowledge Epiq does not hold any interests adverse to Debtor with respect to the matters for which it is to be employed. Epiq is not a creditor in the case. To the best of Debtor's knowledge, Epiq: (a) is a "disinterested person" as that term is used in Section 327 of the Bankruptcy Code and defined in Section 101(14) of the Bankruptcy Code, except that Epiq was employed by Debtor immediately prior to the Petition Date as allowed by Section 1107(b) of the Bankruptcy Code; and (b) does not hold or represent an interest adverse to the Chapter 11 estate and does not have any connection either with Debtor, its creditors, or any other party in interest in this case or with their respective attorneys or accountants, or with the United States Trustee or any person employed in the Office of the United States Trustee in connection with any matter upon which Epiq would be employed, except as set forth herein: prior to December 2008, Jennifer M. Meyerowitz, Vice President and Senior Consultant for Epiq, was an associate of Alston & Bird, LLP, Debtor's proposed counsel.

16. The relief requested herein is necessary to relieve the Clerk of Court of obligations which, given the facts and circumstances of this case, would be burdensome to the Clerk of Court if Debtor did not undertake the obligations, and to establish orderly procedures for processing certain notices. Pursuant to Section 156(c) of the Judicial Code, the Court is empowered to utilize outside agents and facilities for these purposes, provided that Debtor's estate pay the cost of such services.⁴

17. Debtor has identified more than 800 creditors located throughout the world. Debtor believes that the retention of Epiq as the Claims and Noticing Agent is in the best interests of Debtor, its estate and creditors. Epiq is an experienced data processing firm that specializes in claims processing, noticing, balloting, and other administrative tasks in Chapter 11 cases. Epiq has been involved in numerous large Chapter 11 cases, before this Court and throughout the country. *See, e.g., In re Sea Launch Co., L.L.C.*, No. 09-12153, (Bankr. D. Del. June 25, 2009); *In re Atlantis Plastic, Inc.*, No. 08-75473 (Bankr. N.D. Ga. Sept. 3, 2008); *In re Steve & Barry's Manhattan LLC*, No. 08-12579 (Bankr. S.D.N.Y. July 10, 2008); *In re Am. Home Mortgage Holdings, Inc.*, No. 07-11047 (Bankr. D. Del. Aug. 17, 2007); *In re Tweeter Home Entm't Group, Inc.*, No. 07-10787 (PJW) (Bankr. D. Del. June 13, 2007); *In re Hancock Fabrics, Inc.*, No. 07-10353 (BLS) (Bankr. D. Del. April, 13 2007); *In re Dura Auto. Sys., Inc.*, No. 06-11202 (KJC) (Bankr. D. Del. Oct. 31, 2006).

⁴ 28 U.S.C. § 156(c) provides:

Any court may utilize facilities or services, either on or off the court's premises, which pertain to the provision of notices, dockets, calendars, and other administrative information to parties in cases filed under the provisions of title 11, United States Code, where the cost of such facilities or services are paid for out of the assets of the estate and are not charged to the United States. The utilization of such facilities or services shall be subject to such conditions and limitations as the pertinent circuit counsel may prescribe.

Satisfaction of Bankruptcy Rule 6003(b).

18. Pursuant to Bankruptcy Rule 6003(b), any motion seeking to use property of the estate pursuant to section 363 of the Bankruptcy Code, or to incur an obligation regarding property of the estate within twenty (20) days of the petition date, requires that Debtor demonstrate that such relief would prevent “immediate and irreparable harm.” The delay in appointing a Claims Agent in this case would be detrimental to Debtor’s ability to effectively seek necessary relief during this early part of the case because of the extraordinary administrative burdens that would be imposed on Debtor if it had to serve notices on all of its creditors. Thus, if the relief requested herein is not granted Debtor’s estate would suffer immediate and irreparable harm. Accordingly, Debtor respectfully submits that Bankruptcy Rule 6003(b) has been satisfied.

Waiver of Stay Under Bankruptcy Rule 6004(h).

19. As set forth throughout this Application, any delay in authorizing the relief requested herein would be detrimental to Debtor, its estate, and its creditors. Indeed, Debtor’s ability to manage and run its business operations with as little disruption as possible requires, in large part, an able and willing workforce which Debtor currently has in its employees. Accordingly, and to successfully implement the foregoing, Debtor seeks a waiver of the stay of the order authorizing the use, sale or lease of property under Bankruptcy Rule 6004(h), to the extent such provision may be applicable to the order approving this Application.

IV. NOTICE

20. Notice of this Application has been given to the following parties, or in lieu thereof, to their counsel: (a) the Office of the United States Trustee for the Northern

District of Georgia; (b) Debtor's forty (40) largest unsecured creditors; (c) Wells Fargo Business Credit, LLC, and Wells Fargo Bank, N.A., Debtor's prepetition senior secured lender and proposed postpetition lender; (d) Crane & Co., Inc., Debtor's prepetition second lien lender; and (e) the Internal Revenue Service. In light of the nature of the relief requested, Debtor respectfully submits that no further notice is necessary.

WHEREFORE, Debtor respectfully requests entry of an order, substantially in the form attached hereto as "Exhibit 3," (i) authorizing Debtor to employ and retain Epiq as claims and noticing agent *nunc pro tunc* to the Petition Date; (ii) approving the terms of the Agreement; and (iii) granting such other and further relief as is just and proper under the circumstances.

Respectfully submitted this 2nd day of March, 2010.

ALSTON & BIRD LLP

/s/ Wendy R. Reiss

Dennis J. Connolly (Bar No. 182275)

Wendy R. Reiss (Bar No. 600295)

Sage M. Sigler (Bar No. 300707)

1201 West Peachtree Street

Atlanta, GA 30309

Telephone: (404) 881-7000

Facsimile: (404) 881-7777

Proposed Attorneys for Debtor

EXHIBIT 1

AGREEMENT



EPIQ

STANDARD SERVICES AGREEMENT

This Standard Services Agreement is being entered into by and between Epiq Bankruptcy Solutions, LLC ("Epiq") and Swoozie's, Inc. and related debtors (collectively, the "Client"), as of February 25, 2010.

In consideration of the premises herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

General Terms and Conditions

1. Services.

In accordance with the charges, terms and conditions contained in this agreement and in the schedule(s) attached hereto (collectively, the "Agreement"), Epiq agrees to furnish Client with the services set forth on Exhibit A hereto (the "Services") in connection with a corporate restructuring. Services will be provided on an as needed basis and upon request or agreement of the Client. Charges for the Services will be based on the pricing schedule set forth on Exhibit B hereto (the "Pricing Schedule"). The Pricing Schedule sets forth individual unit pricing for each of the Services provided by Epiq and represents a bona fide proposal for that Service. The Client may request separate Services or all of the Services reflected in the Pricing Schedule.

2. Term.

This Agreement shall become effective on the date of its acceptance by both Epiq and the Client; provided, however, Epiq acknowledges that Bankruptcy Court approval of its engagement may be required in order for Epiq to be engaged in a chapter 11 proceeding. The Agreement shall remain in effect until terminated: (a) by the Client, on thirty (30) days' prior written notice to Epiq and, to the extent Epiq has been retained by Bankruptcy Court order, entry of an order of the Bankruptcy Court discharging Epiq; or (b) by Epiq, on ninety (90) days' prior written notice to the Client and, to the extent Epiq has been retained by Bankruptcy Court order, entry of an order of the Bankruptcy Court discharging Epiq.

3. Charges.

- 3.1 For the Services and materials furnished by Epiq under this Agreement, the Client shall pay the fees, charges and costs set forth in the Pricing Schedule. Epiq will bill the Client monthly. All invoices shall be due and payable upon receipt.
- 3.2 Epiq reserves the right to make reasonable increases to the unit prices, charges and professional service rates reflected in the Pricing Schedule on an annual basis effective



January 2nd of each year. If such annual increases exceed 10% from the prior year's level, Epiq shall provide sixty (60) days' prior written notice to the Client of such proposed increases.

- 3.3 Client agrees to pay Epiq for all materials necessary for performance of the Services under this Agreement (other than computer hardware and software) and any reasonable out of pocket expenses including, without limitation, transportation, long distance communications, printing, photocopying, fax, postage and related items.
- 3.4 Client shall pay or reimburse all taxes applicable to services performed under this Agreement and, specifically, taxes based on disbursements made on behalf of the Client, notwithstanding how such taxes may be designated, levied or based. This provision is intended to include sales, use and excise taxes, among other taxes, but is not intended to include personal property taxes or taxes based on net income of Epiq.
- 3.5 Client shall pay to Epiq any actual charges (including fees, costs and expenses as set forth in the Pricing Schedule) related to, arising out of or resulting from any Client error or omission. Such charges may include, without limitation, print or copy re-runs, supplies, long distance phone calls, travel expenses and overtime expenses for work chargeable at the rates set forth on the Pricing Schedule.
- 3.6 In the event of termination pursuant to Section 2 hereof, Client shall be liable for all amounts then accrued and/or due and owing to Epiq under the Agreement.
- 3.7 Client shall pay Epiq a retainer in the amount of \$20,000 (the "Retainer"). The Retainer shall be applied in satisfaction of fees, costs and expenses incurred pursuant to this Agreement. To the extent the Client seeks relief under the Bankruptcy Code, any unapplied portion of the Retainer as of the petition date shall be applied immediately against post-petition date invoices until exhausted.

4. Confidentiality.

Client data provided to Epiq during the term of this Agreement in connection with the Services ("Client Data") shall be maintained confidentially by Epiq in the same manner and to the same level as Epiq safeguards data relating to its own business; provided, however, that if Client Data is publicly available, was already in Epiq's possession or known to it, was required to be disclosed by law, was independently developed by Epiq without use or reference to any Client Data, or was rightfully obtained by Epiq from a third party, Epiq shall bear no responsibility for public disclosure of such data. Client agrees that Epiq shall not be liable for damages or losses of any nature whatsoever arising out of the unauthorized acquisition or use of any Client Data or other Client materials provided to Epiq in the performance of this Agreement.



5. Title to Property.

Epiq reserves all property rights in and to all materials, concepts, creations, inventions, works of authorship, improvements, designs, innovations, ideas, discoveries, know-how, techniques, programs, systems and other information, including, without limitation, data processing programs, specifications, applications, processes, routines, sub-routines, procedural manuals and documentation furnished or developed by Epiq for itself or for use by the Client (collectively, the "Property"). Charges paid by Client do not vest in Client any rights to the Property, it being expressly understood that the Property is made available to Client under this Agreement solely for Client's use during and in connection with each use of the Epiq equipment and services. Client agrees not to copy or permit others to copy any of the Property.

6. Disposition of Data.

- 6.1 Client is responsible for the accuracy of the programs and Client Data it provides or gives access to Epiq and for the output resulting from such data. Client shall initiate and maintain backup files that would allow Client to regenerate or duplicate all programs and Client Data which Client provides or gives access to Epiq. Client agrees, represents and warrants to Epiq that, prior to delivery of any Client Data to Epiq, Client warrants that it has full authority to deliver the Client Data to Epiq. Client has obtained binding consents, permits, licenses and approvals from all necessary persons, authorities or individuals, and has complied with all applicable policies, regulations and laws, required by Client, in order to allow Epiq to use all Client Data delivered to it in connection with its Services. Epiq shall not be liable for, and Client accepts full responsibility for, any liability or obligation with respect to Client Data prior to Epiq's receipt, including without limitation, any liability arising during the delivery of Client Data to Epiq.
- 6.2 Any Client Data, programs, storage media or other materials furnished by the Client to Epiq in connection with this Agreement (collectively, the "Client Materials") may be retained by Epiq until the services provided pursuant to this Agreement are paid for, or until this Agreement is terminated with the services provided herein having been paid for in full. Client shall remain liable for all out of pocket charges incurred by Epiq under this Agreement as a result of any Client Materials maintained by Epiq. Epiq shall dispose of Client Materials in the manner requested by Client (except to the extent disposal may be prohibited by law). Client agrees to pay Epiq for reasonable expenses incurred as a result of the disposition of the Client Materials. Epiq reserves the right to dispose of any Client Materials if this Agreement is terminated without Client's direction as to the return or disposal of Client Material or Client has not paid all charges due to Epiq for a period of at least ninety (90) days; provided, however, Epiq shall provide Client with thirty (30) days' prior written notice if its intent to dispose of such data and media.



7. Indemnification.

The Client shall indemnify, defend and hold Epiq, its affiliates, parent, and each such entity's officers, members, directors, agents, representatives, managers, consultants and employees (each an "Indemnified Person") harmless from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, costs of preparation and attorneys' fees) and expenses as incurred (collectively, "Losses"), to which any Indemnified Person may become subject or involved in any capacity arising out of or relating to this Agreement or Epiq's rendering of services pursuant hereto, regardless of whether any of such Indemnified Persons is a party thereto, other than Losses resulting solely from Epiq's gross negligence or willful misconduct. Without limiting the generality of the foregoing, "Losses" includes any liabilities resulting from claims by third persons against any Indemnified Person. Client and Epiq shall notify the other party in writing promptly of the commencement, institution, threat, or assertion of any claim, action or proceeding of which the Client is aware with respect to the services provided by Epiq under this Agreement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Client, and shall survive the termination of this Agreement until the expiration of all applicable statutes of limitation with respect to Epiq's liabilities.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED, EPIQ SHALL HAVE NO OBLIGATION OR LIABILITY TO THE CLIENT (WHETHER IN TORT, EQUITY, CONTRACT, WARRANTY OR OTHERWISE) FOR ANY INDIRECT, GENERAL, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY USE, INABILITY TO USE OR RESULTS OF USE OF THE SERVICES OR OTHERWISE, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF EPIQ TO THE CLIENT FOR ALL CLAIMS, LOSSES, COSTS, FINES, SETTLEMENTS, PENALTIES OR DAMAGES, INCLUDING COURT COSTS AND REASONABLE ATTORNEY'S FEES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY USE, INABILITY TO USE OR RESULTS OF USE OF THE SERVICES (COLLECTIVELY, "CLAIMS") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY THE CLIENT TO EPIQ FOR THE PARTICULAR SERVICES WHICH GAVE RISE TO THE CLAIMS. TO THE EXTENT CERTAIN JURISDICTIONS GOVERNING THIS AGREEMENT LIMIT THE EXCLUSION OF DAMAGES OR LIMITATION OF LIABILITY HEREUNDER OR OTHERWISE RENDER ANY PART OF THE EXCLUSIONS OF DAMAGES OR LIMITATIONS OF LIABILITY UNENFORCEABLE, THE ABOVE EXCLUSIONS AND LIMITATIONS SHALL BE MODIFIED TO THE MAXIMUM EXTENT PERMITTED BY LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.



8. Representations / Warranties.

Epiq makes no representations or warranties, express or implied, including, without limitation, any implied or express warranty of merchantability, suitability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

9. Confidential On-Line Workspace

Upon request of the Client, Epiq shall be authorized to: (a) establish a confidential on-line workspace with an outside vendor in connection with the provision of its services to the Client pursuant to this Agreement; and (b) with the consent of the Client and/or its designees, publish documents and other information to such confidential workspace. By publishing documents and other information to this confidential workspace in accordance with the foregoing, Epiq shall not be considered in violation of any of the provisions of this Agreement, including, but not limited to, Section 4 (Confidentiality).

10. General

- 10.1 No waiver, alteration, amendment or modification of any of the provisions of this Agreement shall be binding upon either party unless signed in writing by a duly authorized representative of both parties.
- 10.2 This Agreement may not be assigned by Client without the express written consent of Epiq, which consent shall not be unreasonably withheld. The services provided under this Agreement are for the sole benefit and use of Client, and shall not be made available to any other persons.
- 10.3 This Agreement shall be governed by the laws of the State of New York, without regard to that state's provisions for choice of law. Client and Epiq agree that any controversy or claim arising out of or relating to this Agreement or the alleged breach thereof shall be settled by mandatory, final and binding arbitration before the American Arbitration Association in New York, New York and such arbitration shall comply with and be governed by the rules of the American Arbitration Association, provided that each party may seek interim relief in court as it deems necessary to protect its confidential information and intellectual property rights. Any arbitration award rendered pursuant to this provision shall be enforceable worldwide.
- 10.4 The parties hereto agree that this Agreement is the complete and exclusive statement of the agreement between the parties which supersedes all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.



- 10.6 Client will use its best efforts to cooperate with Epiq at Client's facilities if any portion of the Services requires its physical presence thereon.
- 10.7 In no event shall Epiq's Services constitute or contain legal advice or opinion, and neither Epiq nor its personnel shall be deemed to practice law hereunder.
- 10.8 Except for Client's obligation to pay fees, expenses and charges hereunder when due, neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement to the extent such delay or failure arises by reason of any act of God, any governmental requirement, act of terrorism, riots, epidemics, flood, strike, lock-out, industrial or transportation disturbance, fire, lack of materials, war, event of force majeure, or other acts beyond the reasonable control of a performing party.
- 10.9 This Agreement may be executed in counterparts, each of which shall be deemed to an original, but all of which shall constitute one and the same agreement.
- 10.10 All clauses and covenants in this Agreement are severable; in the event any or part of them are held invalid or unenforceable by any court, such clauses or covenants shall be valid and enforced to the fullest extent available, and this Agreement will be interpreted as if such invalid or unenforceable clauses or covenants were not contained herein. The parties are independent contractors and, except as expressly stated herein, neither party shall have any rights, power or authority to act or create an obligation on behalf of the other party.
- 10.11 Notices to be given or submitted by either party to the other, pursuant to this Agreement, shall be sufficiently given or made if given or made in writing and sent by hand delivery, overnight or certified mail, postage prepaid, and addressed as follows:

If to Epiq:

Epiq Bankruptcy Solutions, LLC
757 Third Avenue, Third Floor
New York, New York 10017
Attn: Ron Jacobs

If to Client:

With a copy to:

Wendy R. Reiss, Esq.
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

EPIQ BANKRUPTCY SOLUTIONS, LLC

A handwritten signature in black ink, appearing to read "Daniel C. McElhinney", with a long horizontal stroke extending to the right.

Name: Daniel C. McElhinney
Title: Executive Director

SWOOTIE'S, INC. AND RELATED DEBTORS

By: A handwritten signature in black ink, appearing to read "Kelly Blum Swartz", written over a horizontal line.

Name:
Title:



EXHIBIT A

SERVICES SCHEDULE

CLAIMS MANAGEMENT

- Maintain copies of all proofs of claim and proofs of interest filed (in hard copy and electronic form).
- Create and maintain electronic databases for creditor/party in interest information provided by the debtor (e.g., creditor matrix and Schedules of Statements of Assets and Liabilities) and creditors/parties in interest (e.g., proof of claim/interests).
- Process all proof of claim/interest submitted.
- Provide access to the public for examination of copies of the proofs of claim or interest without charge during regular business hours.
- Maintain official claims registers, including, among other things, the following information for each proof of claim or proof of interest:
 - Name and address of the claimant and any agent thereof, if the proof of claim or proof of interest was filed by an agent;
 - Date received;
 - Claim number assigned; and
 - Asserted amount and classification of the claim.
- Create and maintain a website with general case information, key documents, claim search function, and mirror of ECF case docket.
- Transmit to the Clerk's office a copy of the claims registers on a monthly basis, unless requested by the Clerk's office on a more or less frequent basis or, in the alternative, make available the claims register on-line.
- Implement necessary security measures to ensure the completeness and integrity of the claims registers.
- Record all transfers of claims pursuant to Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Bankruptcy Rule 3001(e).



- Maintain an up-to-date mailing list for all entities that have filed a proof of claim, proof of interest or notice of appearance, which list shall be available upon request of a party in interest or the Clerk's office.

SCHEDULES/STATEMENT PREPARATION

- Assist the Debtors with administrative tasks in the preparation of their bankruptcy Schedules of Assets and Liabilities ("Schedules") and Statements of Financial Affairs ("Statements"), including (as needed):
 - Coordinate with the Client and its advisors regarding the Schedules and Statements process, requirements, timelines and deliverables.
 - Create and maintain of databases for maintenance and formatting of Schedules and Statement data.
 - Coordinate collection of data from Client and advisors.
 - Provide data entry and quality assurance assistance regarding Schedules and Statements, including, specifically, the creation of Schedule G.

CALL CENTER

- Provide state-of-the-art Call Center facility and services, including (as needed):
 - Create of frequently asked questions, call scripts, escalation procedures and call log formats.
 - Record automated messaging.
 - Train Call Center staff.
 - Maintain and transmit call log to Client and advisors.

VIRTUAL DATAROOM

Provide confidential on-line workspace to facilitate permission based and password protected simultaneous document sharing in connection with asset sale due diligence, contract and invoice review, or creation of contract repository, among other reasons.



NOTICING

- Prepare and serve required notices in these Chapter 11 cases, including:
 - Notice of the commencement of these Chapter 11 cases and the initial meeting of creditors under section 341(a) of the Bankruptcy Code;
 - Notice of any auction sale hearing;
 - Notice of the claims bar date;
 - Notice of objection to claims;
 - Notice of any hearings on a disclosure statement and confirmation of a plan of reorganization; and
 - Other miscellaneous notices to any entities, as the debtor or the Court may deem necessary or appropriate for an orderly administration of these Chapter 11 cases.
- After service of a particular notice - whether by regular mail, overnight or hand delivery, email or facsimile service - file with the Clerk's office an affidavit of service that includes a copy of the notice involved, a list of persons to whom the notice was mailed and the date and manner of mailing.
- Update claim database to reflect undeliverable or changed addresses.
- Coordinate publication of certain notices in periodicals and other media.
- Distribute Claim Acknowledgement Cards to creditor having filed a proof of claim/interest.

BALLOTING/TABULATION

- Provide balloting services in connection with the solicitation process for any chapter 11 plan for which a disclosure statement has been approved by the Court, including (as needed):
 - Consult company and its counsel regarding timing issues, voting and tabulation procedures, and documents needed for the vote.
 - Review of voting-related sections of the voting procedures motion, disclosure statement and ballots for procedural and timing issues.
 - Assist in obtaining information regarding members of voting classes, including lists of holders of bonds from DTC and other entities (and, if needed, assist the company in requesting these listings).
 - Coordinate distribution of solicitation documents.



- Prepare a certificate of service for filing with the court.
- Respond to requests for documents from parties in interest, including brokerage firm and bank back-offices and institutional holders.
- Respond to telephone inquiries from lenders, bondholders and nominees regarding the disclosure statement and the voting procedures.
- Establish a website for the posting of solicitation documents.
- Receive and examine all ballots and master ballots cast by voting parties. Date- and time-stamp the originals of all such ballots and master ballots upon receipt.
- Tabulate all ballots and master ballots received prior to the voting deadline in accordance with established procedures, and prepare a vote declaration or certification for filing with the court.
- Undertake such other duties as may be requested by the Client.

MISCELLANEOUS

- Provide such other claims processing, noticing and related administrative services as may be requested from time to time by the Debtors.
- Promptly comply with such further conditions and requirements as the Court may at any time prescribe.
- Comply with applicable federal, state, municipal, and local statutes, ordinances, rules, regulations, orders and other requirements.
- Provide temporary employees to the Clerk's Office to process claims, as necessary.



EXHIBIT B

PRICING SCHEDULE

Professional Services

<u>Title</u>	<u>Hourly Rate Range</u>	<u>Average Rate</u>
Clerk	\$40 - \$60	\$ 50.00
Case Manager (Level 1)	\$125 - \$175	\$142.50
IT Programming Consultant	\$140 - \$190	\$165.00
Case Manager (Level 2)	\$185 - \$220	\$202.50
Senior Case Manager	\$225 - \$275	\$247.50
Senior Consultant	\$295	\$295

Note: Professional services provided by Senior Consultants in connection with public securities solicitation and tabulation will range from \$360 to \$415 per hour. Epiq does not include a premium/overtime charge for any of the professional services it performs. However, outside vendors utilized by Epiq may include a premium / overtime charge for work performed on a weekend, holiday or after standard business hours.

Claims Management Services

Database Maintenance	\$0.10 per creditor record per month
Data Transfer	\$0.10 per creditor record
Manual Claim Input	\$0.35 per claim (plus hourly rates)
Document Storage	At Cost
Electronic Imaging	\$0.30 per image
OCR ¹ capture	\$0.10 per image
CD Storage	Varies upon requirements
Weblink Hosting Fee	\$200.00 per month
Website Construction	\$150.00 per hour

Call Center Services

Standard Call Center Setup	\$2,500
Call Center Operator	\$75 per hour
Voice Recorded Message	\$0.19 per minute
Support/Maintenance	\$200 per month

¹ OCR refers to optical character recognition, which is an enhanced form of electronic imaging.



Virtual Data Room Services

Confidential On-line Workspace	\$1.30 per page per 9 months
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Noticing Services

Printing	\$0.10 per image (plus envelope face)
Collate, fold and insert	\$0.10 per piece
Postage/Overnight Delivery	At Cost
E-Mail Noticing	\$0.02 per page
Fax Noticing	\$0.20 per page
Claim Acknowledgement Card	\$0.25 per card
Publication Noticing	TBD

Note: Fees and costs associated with publication of a legal notice will vary depending on the size, timing and breadth of publication, as well as the periodicals selected for publication. Epiq will obtain quotes for publication upon request of the Client.

Public Securities Balloting/Tabulation Services

Noticing

Street Name Holders	\$15,000
Registered Holders	\$0.50 - \$0.65 per holder (Two paper notices included in the same envelope; subject to a \$500 minimum)
Individual Parties	\$1.75 - \$2.25 per voting package (Subject to a \$750 minimum)
CUSIP/ISIN Charge	\$3,000 per CUSIP/ISIN
Tabulation	\$125 per hour
Tabulation Set up	\$1,000 for each tabulation element (e.g., each security or plan class)
Document Hosting Fee	\$150 per month

Disbursement Services

Check and/or Form 1099	\$1.50 each
Record to Transfer Agent	\$0.25 each

EXHIBIT 2

DECLARATION

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re)	Chapter 11
)	
SWOOZIES, INC. ¹)	Case No. 10-66316-CRM
)	
Debtor.)	
)	

**DECLARATION OF DANIEL C. MCELHINNEY IN SUPPORT
OF THE DEBTORS' APPLICATION FOR AN ORDER
APPOINTING EPIQ BANKRUPTCY SOLUTIONS, LLC AS
NOTICING, CLAIMS AND BALLOTING AGENT**

I, Daniel C. McElhinney, being duly sworn, state the following under penalty of perjury.

My name is Daniel C. McElhinney. I am over the age of 18 and competent to testify. I am the Executive Director of Epiq Bankruptcy Solutions, LLC ("**Epiq**"), a claims management and data processing firm that specializes in providing a wide-range of administrative services in Chapter 11 cases, including noticing, claims processing, balloting and other related services critical to the effective administration of Chapter 11 cases. I am authorized to make this declaration on behalf of Epiq and in support of the application the "Application") of the above-captioned debtor and debtor in possession ("**Debtor**") for entry of an order authorizing the above-captioned debtor and debtor in possession to employ and retain Epiq as noticing, claims and balloting agent in connection with its Chapter 11 case pursuant to the terms of that certain bankruptcy services agreement (as the same may have been and may further be amended, supplemented or modified from time to time, the "**Agreement**"), a copy of which is

¹ The last four digits of Debtor's taxpayer identification number are 5738 and Debtor's mailing address is 80 W. Wieuca Road, Suite 302, Atlanta, GA 30342.

annexed to the Application as Exhibit 1 and incorporated by reference herein. Except as otherwise noted, I have personal knowledge of the matters set forth herein.

EPIQ's Qualifications

1. Epiq is a claims management and data processing firm that specializes in providing comprehensive Chapter 11 administrative services including noticing, claims processing, balloting and other related services critical to the effective administration of Chapter 11 cases. Epiq has substantial experience in matters of this size and complexity and has acted as the official noticing, claims and balloting agent in many large bankruptcy cases in this District and other districts nationwide. Indeed, Epiq has developed efficient and cost-effective methods to handle properly the voluminous mailings associated with the noticing, claims processing and balloting portions of Chapter 11 cases to ensure the orderly and fair treatment of creditors, equity security holders and all parties in interest. Further, Epiq will work with the Clerk's Office to ensure that such mailings conform to all of the Court's procedures, the Local Rules and the provisions of any orders entered by this Court.

Services to be Provided

2. In accordance with the terms and conditions of the Agreement, Epiq will provide certain noticing, claims processing and balloting administration services including, without limitation:

- a. Prepare and serve required notices in this bankruptcy case, including:
 - (1) A notice of the commencement of this case and the initial meeting of creditors under Section 341(a) of the Bankruptcy Code;

- (2) A notice of the claims bar date;
 - (3) Notices of any hearing on a disclosure statement and confirmation of Chapter 11 plan; and
 - (4) Such other notices as Debtor or the Court may deem necessary or appropriate for an orderly administration of this case.
- b. Within five (5) business days after the service of a particular notice, file with the Clerk's Office a declaration of service that includes (i) an alphabetical list of persons on whom Epiq served the notice, along with their addresses, and (ii) the date and manner of service;
- c. Maintain an official claims register by receiving and docketing all proofs of claim and proofs of interest in a claims database that includes the following information for each such claim or interest asserted:
 - (1) The name and address of the claimant or interest holder and any agent thereof, if the proof of claim or proof of interest was filed by an agent;
 - (2) The date that the proof of claim or proof of interest was received;
 - (3) The claim number assigned to the proof of claim or proof of interest; and
 - (4) The asserted amount and classification of the Claim.

- d. Implement necessary measures and procedures to ensure the completeness, accuracy, and integrity of the claims register as approved by the Clerk of the Court;
- e. Periodically audit the claims information to assure the Clerk of the Court that claims information is being accurately recorded and reflected.
- f. Allow the Clerk of Court to independently audit the claims information during regular business hours;
- g. Mail a notice of the bar date approved by the Court for the filing of a proof of claim and a form for filing of a proof of a claim to each creditor notified of the filing, or subsequently discovered;
- h. Transmit to the Clerk of the Court a copy of the claims register on a monthly basis or at such other interval as the Clerk of the Court may direct;
- i. Maintain an up-to-date mailing list for all entities that have filed proofs of claim or proofs of interest and make such list available upon request to the Clerk of Court or any party in interest;²
- j. Provide the public and the Clerk of the Court access to copies of the proofs of claims or proofs of interest filed in this case without charge during regular business hours;

² Epic shall also maintain a website specifically for Debtor's bankruptcy case from which anyone may download the claims register and other relevant information and documents pertaining to Debtor's bankruptcy case.

- k. Record all transfer of claims pursuant to Federal Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Federal Bankruptcy Rule 3001(e);
- l. Comply with applicable federal, state, municipal and local statutes, ordinances, rules, regulations, orders and other requirements;
- m. Promptly comply with such further conditions and requirements as the Clerk of the Court may at any time prescribe; and
- n. Provide such other claims processing, noticing, and related administrative services as may be requested from time to time by Debtor.

Professional Compensation

3. The compensation arrangement provided for in the Agreement is consistent with and typical of arrangements entered into by Epiq and other such firms with respect to rendering similar services for clients such as Debtor. Debtor will pay Epiq's fees and expenses upon the submission of monthly invoices by Epiq. To date, Epiq has received \$20,000 from the Debtors as a retainer for this case. .

EPIQ's Disinterestedness

4. Although Debtor does not propose to retain Epiq under section 327 of the Bankruptcy Code, Epiq has nonetheless conducted a conflicts analysis. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, neither Epiq nor any of its employees holds or represents an interest adverse to Debtor's estate or has a connection to the Debtor, its creditors, the Office of

the United States Trustee or any employees thereof or any party in interest herein, except as provided below, with respect to any matter for which Epiq will be employed.

5. Debtor has many creditors, and accordingly, Epiq may have rendered and may continue to render services to certain of these creditors. Epiq has not and will not represent the separate interests of any such creditor in this case. Epiq may have relationships with certain of Debtor's creditors as vendors or in connection with cases in which Epiq serves or has served in a neutral capacity as noticing, claims and/or balloting agent for another Chapter 11 debtor. Such relationships are, to the best of my knowledge, completely unrelated to this Chapter 11 case.

6. Additionally, Epiq employees may, in the ordinary course of their personal affairs, have relationships with certain creditors or other parties in interest of the Debtor. For example, one or more of Epiq's employees may have obligations outstanding with financial institutions that are creditors of the Debtor or may have used the Debtor's services. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal financial nature and completely unrelated to these chapter 11 cases. Also Epiq has and will continue to have relationships in the ordinary course of its business with certain vendors, professionals and other parties in interest that may be involved in Debtor's case in matters unrelated to this case.

7. Epiq shares a corporate parent with certain companies that provide integrated technology products and services to the legal profession for electronic discovery, class action settlements, financial transactions, Chapter 7 and Chapter 13 bankruptcy, litigation, and regulatory compliance. Given the legal and operational separateness of Epiq from its affiliates and the administrative nature of the services

performed by such companies, Epiq does not believe that a conflict would arise solely from any relationship or claim of an Epiq affiliate or its corporate parent.

8. Jennifer Meyerowitz, a Vice President and Senior Consultant with Epiq, was associated with Alston & Bird, LLP until December 2008.

9. I am not related or connected to and, to the best of my knowledge, no other professional of Epiq is related or connected to any United States Bankruptcy Judge or the United States Trustee for the Northern District of Georgia or to any employee in the offices thereof.

10. Should Epiq discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, Epiq will use reasonable efforts to file promptly a supplemental declaration. Thus, to the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, Epiq and its employees are “disinterested persons,” as that term is defined in section 101(14) of the Bankruptcy Code, except that Epiq was employed by Debtor prior to the Commencement Date as allowed under section 1107(b) of the Bankruptcy Code.

11. There is no agreement or understanding between Epiq and any other person or entity for sharing compensation received or to be received for services rendered by Epiq in connection with this Chapter 11 case.

12. Epiq will comply with all requests of the Clerk of the Court and follow the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 1st day of March, 2010

A handwritten signature in black ink, appearing to read "Daniel C. McElhinney", with a long horizontal flourish extending to the right.

Daniel C. McElhinney

EXHIBIT 3

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	Chapter 11
)	
SWOOZIE’S, INC., ¹)	Case No. 10-66316-CRM
)	
Debtor.)	

**ORDER GRANTING DEBTOR’S APPLICATION FOR
AN ORDER APPOINTING EPIQ BANKRUPTCY
SOLUTIONS, LLC AS CLAIMS AND NOTICING AGENT**

Upon consideration of the application (the “**Application**”)² of Swoozie’s, Inc., the debtor and debtor in possession in the above-captioned Chapter 11 case (“**Debtor**”) for an order, pursuant to Section 156(c) of Title 28 of the United States Code (the “**Judicial Code**”), Section 341 of Title 11 of the United States Code (the “**Bankruptcy Code**”), and Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing and approving the appointment of Epiq Bankruptcy Solutions, LLC (“**Epiq**”)

¹ The last four digits of Debtor’s taxpayer identification number are 5738 and Debtor’s mailing address is 80 W. Wieuca Road, Suite 302, Atlanta, GA 30342.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Application.

as claims and noticing agent for the Court and the Clerk of the Bankruptcy Court (the “**Clerk’s Office**”); and upon the Declaration of Kelly Plank-Dworkin in Support of Chapter 11 Petition and First Day Motions, and upon consideration of the record of the hearing held before the Court; and it appearing that the relief requested is in the best interests of Debtor and its estate and creditors; and it appearing that due and proper notice of the Application having been given; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. The Application is granted in its entirety.
2. Debtor is hereby authorized to retain Epiq as the claims, balloting, and noticing agent in this Chapter 11 case, *nunc pro tunc* to the Petition Date, pursuant to Section 156(c) of the Judicial Code as provided in the Application, on the terms and conditions set forth in the Agreement, attached to the Application as Exhibit 1, which terms and conditions are hereby approved.
3. At the request of Debtor and/or the Clerk’s Office, Debtor’s claims and noticing agent, Epiq, shall, subject to the terms of the Agreement, provide all of the services listed in the Services Schedule attached as Exhibit A to the Agreement.
4. In addition to the foregoing, in accordance with the Agreement and to the extent requested by Debtor, Epiq shall assist Debtor with, among other things, (a) preparation of the schedules of Assets and Liabilities and Statements of Financial Affairs, (b) maintenance of Debtor’s master creditor list, and (c) the preparation, mailing and tabulation of ballots for the purpose of voting to accept or reject a Chapter 11 plan.
5. The fees and expenses of Epiq incurred in performance of the above

services are to be treated as administrative expenses of Debtor's Chapter 11 estate and shall be paid by Debtor in the ordinary course, upon receipt of a reasonably detailed invoice, in accordance with the terms of the Agreement, without the necessity of Epiq filing formal interim or final fee applications or otherwise complying with the monthly, quarterly or final compensation procedures applicable to professionals. Any dispute between Epiq and Debtor with respect to fees and expenses shall be presented to this Court for resolution thereof.

6. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Application, statements made in the Plank-Dworkin Declaration, and on the record at the hearing.

7. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. Debtor and Epiq are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

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

***** END OF ORDER *****

Prepared and presented by:

ALSTON & BIRD LLP

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