

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

**IN RE:**

**PURINA MILLS, INC., a Delaware  
Corporation, et al.,  
Debtors.**

)  
) **CHAPTER 11**  
) **Case No. 99-3938 (SLR)**  
) **Jointly Administered**  
)

**APPLICATION OF CHANIN CAPITAL PARTNERS LLC,  
FINANCIAL ADVISOR FOR  
THE OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS, FOR (A) FINAL ALLOWANCE OF  
COMPENSATION AND FOR THE REIMBURSEMENT OF  
EXPENSES FOR SERVICES RENDERED DURING THE PERIOD  
FROM NOVEMBER 9, 1999 THROUGH JUNE 30, 2000 AND FOR (B)  
ALLOWANCE OF COMPENSATION PURSUANT TO 11 U.S.C. §503(b) FOR  
SERVICES RENDERED DURING THE  
PERIOD OF OCTOBER 28, 1999 THROUGH NOVEMBER 8, 1999**

**TO: THE HONORABLE SUE L. ROBINSON,  
UNITED STATES DISTRICT JUDGE:**

Chanin Capital Partners LLC ("Chanin" or "Applicant"), financial advisor to the Official Committee of Unsecured Creditors (the "Committee") of Purina Mills, Inc. ("Purina") and its affiliated debtors and debtors-in-possession (the "Debtors"), for its application pursuant to 11 U.S.C. §§ 330 for final allowance of compensation for services rendered and for reimbursement of expenses incurred in connection therewith and its application pursuant to 11 U.S.C. §503(b) for allowance of compensation and for reimbursement of expenses for services rendered, respectfully represents:

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## **I. INTRODUCTION**

1. By this application, Chanin seeks:

- (i) (a) final allowance of fees and expenses in the aggregate amount of \$96,756.25 for the period of November 9, 1999 through November 30, 1999, which compensation was awarded to Chanin pursuant to an order of this Court dated March 10, 2000;
- (b) final allowance of fees and expenses in the aggregate amount of \$260,279.37 for the period of December 1, 1999 through January 31, 1999, which compensation was awarded to Chanin pursuant to an order of this Court dated April 4, 2000;
- (c) final allowance of fees and expenses in the aggregate amount of \$504,409.64 for the period of February 1, 2000 through May 31, 2000, which compensation was awarded to Chanin pursuant to an order of this Court dated August 8, 2000;
- (ii) allowance and award of fees and expenses in the aggregate amount of \$125,389.15 for the period of June 1, 2000 through June 30, 2000<sup>1</sup>;
- (iii) allowance of compensation for professional services rendered by Chanin pursuant to 11 U.S.C. §503(b) for the period of October 28, 1999 through November 8, 1999 (the "Pre-Committee Period") in the amount of \$50,000.00 and award of compensation in the amount of \$33,333.34 (\$50,000.000 less \$16,666.66 which has been paid);

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<sup>1</sup> Chanin filed a fourth interim fee application dated August 11, 2000 that has not been ruled on by this Court. The first, second and third interim fee applications are on file with this Court and are incorporated herein by reference.

- (iv) allowance and award of compensation in the amount of \$275,000.00 with respect to the Cash Transaction Fee; and
- (v) allowance and award of compensation in the amount of \$275,000.00 with respect to the face amount of the Convertible Secured Note.

2. Venue of this proceeding and this application is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 330 and 331 and Federal Rules of Bankruptcy Procedure 2002(a) and 2016.

## II. BACKGROUND

3. On October 28, 1999 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to an Order of this Court dated October 29, 1999, the Debtors' Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered.

4. The Debtors remain in possession of their respective properties and are operating and managing their businesses as debtors-in-possession pursuant to Bankruptcy Code Sections 1107 and 1108.

5. Debtor PM Holdings Corporation is the direct parent of Debtor Purina Mills, Inc. ("Purina Mills"). Purina Mills, in turn, is the direct or indirect parent of each of the other Debtors. The Debtors and their non-debtor subsidiaries (collectively, the "Purina Companies") together form the largest feed manufacturer in the United States and are recognized as industry leaders in animal nutrition products and related research

and management programs. The Purina Companies produce over 20,000 active feed formulas for farm, companion, exotic, lab and zoo animals and provides customers with related technical and consulting services.

6. In August 1999, the Debtors commenced negotiations with an informal committee (the "Informal Committee") comprising certain holders of the 9% Senior Subordinated Notes due 2010 issued by Purina Mills (the "Notes") in an effort to reach a consensual restructuring of the Debtors' debt obligations. Chanin served as financial advisor to the Informal Committee. In connection with its representation of the Informal Committee, Chanin entered into an engagement letter with the Company, which engagement letter provided that the Company would pay the fees and expenses of Chanin ("Engagement Letter" - Exhibit A). The Informal Committee dissolved prior to the formation of the Committee and four of the six members of the Informal Committee are members of the Committee.

7. On November 9, 1999 (the "Committee Formation Date"), pursuant to Bankruptcy Code Section 1102, the United States Trustee appointed the Committee consisting of seven members.<sup>2</sup> On the Committee Formation Date, the Committee selected Chanin to serve as financial advisor to the Committee. Chanin was retained as financial advisor to the Committee, nunc pro tunc to November 9, 1999, pursuant to an order of this Court dated December 15, 1999 ("Retention Order" - Exhibit B).

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<sup>2</sup> The Committee is comprised of Bank One Trust Co., Greenwich Street Capital Partners, Inc., Franklin Resources, William E. Simon & Sons, Kornitzer Capital Management, Inc., PCS Sales (U.S.A.) Inc. and Tyson Foods, Inc.

8. On January 18, 2000, the Debtors filed the Joint Plan of Reorganization of Purina Mills, Inc. (the "Initial Plan") and related disclosure statement (the "Disclosure Statement"). Subsequently, on February 4, 2000, the Debtors filed certain related exhibits. Thereafter, on February 16, 2000, the Debtors filed the Amended Joint Plan of Reorganization of Purina Mills, Inc. (the "Amended Plan") and on February 22, 2000, the Second Amended Joint Plan of Reorganization of Purina Mills, Inc., as modified (the "Plan"). The revisions reflected, among other items, a consensual settlement with the existing bank group in early February.

9. The Plan was approved by a favorable vote of more than 95 percent of the Debtors' creditors and on April 5, 2000, the Court entered an order (the "Confirmation Order") confirming the Plan.

10. On June 29, 2000, the Plan became effective in accordance with its terms, and the Debtors emerged from bankruptcy.

11. Pursuant to Chanin's Retention Order, Chanin is to be compensated for its services in accordance with the terms and conditions contained in the Engagement Letter. Pursuant to the Engagement Letter, Chanin's financial advisory fee is \$125,000 per month (the "Monthly Advisory Fee"). Additionally, the Debtor shall reimburse Chanin for all reasonable out-of-pocket expenses incurred in connection with its engagement by the Committee, including, without limitation, to counsel fees and disbursements, coach class travel and lodging expenses, data processing, reproduction

and communication charges, courier services and other actual and necessary out-of-pocket business expenses.

12. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

13. Venue is proper pursuant to 28 U.S.C. § 1409.

14. This application is submitted pursuant to the terms of the Administrative Order, Pursuant to Sections 105(a) and 331 of the Bankruptcy Code, Establishing Procedures for Interim Compensation and Reimbursement of Professionals dated October 29, 1999 (the "Administrative Fee Order").

15. Other than in connection with its representation of the Noteholders' Committee prior to the appointment of the Committee, Applicant has received no payment and no promises for payment from any source for services rendered in connection with these cases. There is no agreement or understanding between the Applicant and any other person (other than members of Chanin) for the sharing of compensation to be received for the services rendered in these cases.

### **III. RELIEF REQUESTED**

16. Pursuant to Chanin's Retention Order (Exhibit A), Chanin is compensated for its services in accordance with the terms and conditions contained in the Engagement Letter (Exhibit B). Pursuant to the Engagement Letter, Chanin is entitled to (i) a monthly advisory fee of \$125,000 per month and (ii) a Transaction Fee equal to

0.50% of the consideration received by the Unsecured Creditors (Class 5), less 50% of the monthly fees paid after the fourth month.

17. Further, as described therein, the Transaction Fee is to be paid 50% in cash (the "Cash Transaction Fee") and 50% in the form of an unsecured promissory note (the "Convertible Unsecured Note") maturing on December 31, 2001, bearing quarterly simple interest of 8% per annum and convertible into new common stock of Purina Mills, Inc. (at the holder's option) based on the equity value of such shares at confirmation.

18. Chanin hereby seeks:

- a. Final allowance of compensation and reimbursement of expenses in the amount of \$861,445.26 in connection with services rendered during the period from November 9, 1999 through May 31, 2000.
- b. Allowance and award of compensation and reimbursement of expenses in the amount of \$125,389.15 in connection with services rendered during the period from June 1, 2000 through June 30, 2000.  
A detailed calculation of monthly fees payable, paid and currently outstanding for services rendered is attached hereto in Exhibit D.
- c. Allowance for compensation of professional services rendered by Chanin pursuant to 11 U.S.C. §503(b) for the period of October 28, 1999 through November 8, 1999 (the "Pre-Committee Period") in the amount of \$50,000.00 and award of compensation in the amount

of \$33,333.34 (\$50,000.000 less \$16,666.66 which has been paid).

A detailed summary of hours for Chanin professionals in the Pre-Committee Period is attached hereto in Exhibit C.

- d. Allowance and award of compensation in the form of a Cash Transaction Fee in the amount of \$275,000.00. A detailed calculation of the Cash Transaction Fee is attached hereto in Exhibit E.
- e. Allowance and award compensation in the form of a Convertible Unsecured Note with a face amount of \$275,000.00, bearing 8% simple interest per annum, maturing December 31, 2001, convertible into common stock at the holder's option. A detailed calculation of the face amount of the Convertible Unsecured Note is attached hereto in Exhibit E and incorporated herein by reference.

19. Chanin has received payment with respect to the First Interim Fee Application and the Second Interim Fee Application and an order has been signed by the court approving fees and expenses sought in the Third Interim Fee Application.



#### IV. ADVISORY ACTIVITY

20. The Engagement Letter outlines the specific services to be provided by Chanin. Such services include:

- A) Analysis of the Company's operations, business strategy, and competition in each of its relevant markets as well as an analysis of the industry dynamics affecting the Company;
- B) Analysis of the Company's financial condition, business plans, operating forecasts, management, and the prospects for its future performance;
- C) Valuation of the ongoing operations of the Company;
- D) Assist the Committee in developing, evaluating, structuring and negotiating the terms and conditions of the Restructuring Plan, including the value of the securities, if any, that may be issued to the Committee under any such Restructuring plan;
- E) Analysis of potential divestitures of the Company's operations; and
- F) Provide the Committee with other and further financial advisory services with respect to the Company, including valuation, general restructuring and advice with respect to financial, business and economic issues, as may arise during the course of the restructuring as requested by the Committee.

21. The professionals of Chanin who have primarily rendered professional services on behalf of the Committee include: Skip Victor, Steven R. Strom, Douglas Martin and Brendan O'Leary.

- A) Skip Victor is a Senior Managing Director of Chanin. Prior to co-founding Chanin, Mr. Victor was vice president in the corporate finance department of Drexel Burnham Lambert, Inc., specializing in judicial reorganizations and restructurings.
- B) Steven Strom is a Managing Director of Chanin. Prior to joining Chanin, Mr. Strom was a research analyst/trader at Commodities Corporation and Vice President in the mergers and acquisition group at Chemical Bank, respectively.
- C) Douglas Martin is a Vice President of Chanin. Mr. Martin was a Vice President at Windstar Capital based in Los Angeles, prior to joining Chanin.
- D) Brendan O'Leary is a Senior Associate of Chanin. Mr. O'Leary joined Chanin in February 1997. Prior to joining Chanin, he was employed as a securities analyst at BDS Securities LLC, a broker dealer specializing in the securities of distressed companies.

## **V. SUMMARY OF SERVICES RENDERED**

22. Since November 9, 1999, Chanin has rendered professional services to the Committee as requested and as necessary and appropriate in furtherance of the interests of the Debtors' unsecured creditors. The variety and complexity of these cases and the need to act or respond on an expedited basis in furtherance of the Committee's needs have required the expenditure of substantial time by Chanin personnel.

23. The services rendered by Chanin for the period of November 9, 1999 through June 30, 2000 are described in the four interim fee applications that are on file with this Court and are incorporated herein by reference.

24. Chanin respectfully submits that the professional services that it rendered on behalf of the Committee were necessary and have directly contributed to the effective administration of these cases.

## **VI. SUMMARY OF SERVICES RENDERED DURING THE PRE-COMMITTEE PERIOD**

25. The following summary of services rendered during the Pre-Committee Period is not intended to be a detailed description of the work performed, as those day-to-day services and the time expended in performing such services are fully set forth in Exhibit "C". Rather, it is merely an attempt to highlight certain of those areas in which services were rendered to the Informal Committee, as well as to identify some of the problems and issues that Chanin was required to address.

### **(i) Background**

26. Prior to being retained by the Official Committee, the Informal

Committee requested Chanin to perform numerous and extensive tasks relating to analyzing operational and financial issues of the Debtors. Chanin performed a substantial amount of work for the Informal Committee during the period prior to the filing. Chanin communicated the results of our analyses through periodic written and oral presentations at meetings of the Informal Committee, periodic conference calls with the Informal Committee and telephone conversations and meetings with the individual Informal Committee members and other Informal Committee professionals. Once retained as financial advisor to the Official Committee, Chanin ceased to provide services on behalf of the Informal Committee and provided services on behalf of the Committee. Chanin provided copies of the work product it developed on behalf of the Informal' Committee to the members of the Official Committee. The Official Committee has received the benefit of Chanin's pre-petition work and in-depth knowledge of the case. Chanin is seeking the allowance of compensation and reimbursement of expenses for the period of October 28, 1999 through November 8, 1999 pursuant to 11 U.S.C. §503(b).

(ii) Financial Due Diligence

27. Chanin has undertaken an extensive financial due diligence process to understand and assess the operational and financial position of the Debtor. This process included an in-depth review and analysis of significant amounts of historical and projected financial information which Chanin presented to the Informal Committee. Projects included an ongoing analysis of the Company's projections. The due diligence

process was ongoing and was conducted via numerous on-site meetings and teleconferences with Purina management and its advisors.

(iii) Financial Analysis

28. At the request of the Informal Committee, Chanin worked extensively with the Debtor and its Advisor to understand the Debtor's cash receipts and disbursements and changing cash-flow forecasts during this period. These analyses were essential to monitor the performance of the Debtor, its liquidity situation and the adequacy of the availability under the proposed DIP and anticipated exit-financing facilities.

29. Chanin reviewed and analyzed the changing cash flow forecasts provided by the Debtor vis-a-vis the Debtor's original projection and historical performance. Chanin updated the Informal Committee regularly on the actual performance compared to budgeted performance. In addition, Chanin discussed with management and its advisors the factors that led to variance, if any. Chanin reviewed and analyzed the Debtor's monthly operating reports, which includes a summary of sources and uses of funds, balance sheet and income statement data. Chanin provided analysis of this data to the Informal Committee in order to keep all members current on the Debtor's performance.

30. Chanin prepared a preliminary debt capacity analysis. Chanin prepared a preliminary analysis of the range of nominal debt the post-reorganization entity could sustain under various debt rating and cash flow criteria. This analysis looked

at a range of scenarios for the Debtor's capital structure post reorganization. Chanin presented its findings to the Informal Committee.

31. Chanin reviewed and analyzed several proposed motions to be filed by the Debtors and other parties in interest in this Court, including, but not limited to, motions related to the sale of assets and the assumption and rejection of certain contracts. Chanin prepared financial analysis related to several of these motions and kept Informal Committee members advised of all material developments during the Pre-Committee Period. Chanin also consulted with Akin Gump, the Informal Committee's Counsel, regarding documents and other information received or required from the Debtors.

(iv) Post-Petition Financing

32. The Debtors filed a motion seeking this Court's approval of a \$50 million post-petition financing facility (the "DIP Facility") from Chase Bank of Texas, N.A. ("Chase") and a group of lenders dated October 28, 1999.

33. On October 28, 1999, this Court entered an interim order preliminarily approving the Debtors' borrowing under the DIP Facility on an interim basis, pending a final hearing. On November 15, 1999, this Court entered a final order approving borrowings by the Debtors under the full \$50 million DIP Facility. Chanin reviewed and analyzed provisions of the DIP Facility. Chanin, in conjunction with committee counsel, negotiated substantial changes to the proposed DIP agreement with Chase's counsel.

(v) Plan of Reorganization and Disclosure Statement

34. Chanin reviewed and analyzed the Plan of Reorganization and Disclosure Statement (the "Plan Documents") proposed by the Debtors. On behalf of the Informal Committee, Chanin reviewed the Plan and Disclosure Statement to ensure that these documents reflected the provisions that were negotiated on behalf of the Informal Committee.

35. Chanin reviewed and analyzed the financial aspects of the Plan of Reorganization and Disclosure Statement (the "Plan Documents") filed by the Debtors. Chanin discussed its analysis of the Plan Documents with the Informal Committee. During the Pre-Committee Period, Chanin played an active role in conjunction with the Informal Committee's counsel in negotiating required modifications to the Plan Documents.

(vi) Koch Settlement

36. Chanin, in conjunction with committee counsel, negotiated on behalf of the Informal Committee with advisors to the Debtor and advisors for Koch Industries, Inc. and Koch Agriculture Company (collectively, "Koch") on a term sheet for a settlement with Koch (the "Koch Settlement") of claims that the Debtor and creditors of the Debtors had against Koch. Chanin prepared presentations to the Informal Committee regarding the settlement entered into with Koch. These presentations were largely based on financial analysis of several significant economic issues which related to the Koch settlement. Chanin participated in several discussions with financial advisors for the

Debtors and financial advisors for Koch regarding certain open issues concerning the Koch settlement and incorporating it into the Plan. On November 9, 1999, certain members of the Informal Committee executed a lock up agreement with Koch regarding support for the Koch Settlement. The Koch Settlement became the basis for the Plan of Reorganization which was ultimately confirmed by the court.

(viii) Creditors' Committee Meetings

37. Chanin participated in several meetings and conference calls with the Informal Committee during the Compensation Period. Prior to these calls with the Informal Committee, Chanin prepared detailed analysis and supporting schedules to the Committee during the Pre-Committee Period discussing the status of ongoing financial matters of the Debtor.

38. Through these telephone conferences and correspondence, Chanin assisted the Informal Committee in fulfilling its duties to make informed decisions regarding the various issues which have arisen in these cases, to monitor closely the Debtors' management of these proceedings, and to reach independent conclusions on the merits of specific matters, as well as regarding the prospects of reorganization.

39. In addition to the assignments and tasks set forth above, at the request of the Informal Committee, Chanin (i) participated in various conference calls and meetings with Informal Committee members and other constituents, (ii) reviewed and analyzed certain other financial information (as requested by the Informal Committee), and (iii) provided other financial analysis in assistance to the Informal Committee's



counsel. All of Chanin's activities were conducted with the goal of producing efficient and effective services to the Informal Committee and the Debtor's estate.

## **VII. AUTHORITY FOR THE ALLOWANCE OF COMPENSATION**

40. Section 503(b) of the Bankruptcy Code authorizes the Court, after notice and a hearing, to allow as administrative expenses (a) "the actual, necessary expenses...incurred by" an unofficial committee "in making a substantial contribution in a case under" Chapter 11 of the Bankruptcy Code, *id.* §503(b)(3)(D), and (b) "reasonable compensation for professional services rendered by an attorney or accountant whose expense is allowable under [Section 503(b)(3)(D)], based on the time, the nature, the extent, and the value of such services, and the cost of comparable services other than in a case under [the Bankruptcy Code], and reimbursement for actual, necessary expenses incurred by such attorney," *id.* §503(b)(4).

41. Under Section 503(b), an applicant must establish by a preponderance of the evidence that the services it rendered for which it seeks compensation provided a substantial benefit to the estate. Michael Q. Lebron, Michael C. Lebron, and Anthony Lebron v. Mecham Financial, Inc., 27 F.3d 937 (3<sup>rd</sup> Cir. 1994); In re U.S. Lines, Inc., 103 B.R. 427, 429 (Bankr. S.D.N.Y. 1989, *aff'd*, 1991 WL 67464 (S.D.N.Y. 1991); see In re McLean Industries, Inc., 88 B.R. 36, 38 (Bankr. S.D.N.Y. 1988); In re Jack Winter Apparel, Inc., 119 B.R. 622, 629 (E.D. Wis. 1990); In re Hanson Industries, Inc., 90 B.R. 405, 409 (Bankr.D.Minn. 1988); In re D.W.G.K. Restaurants, Inc. 89 B.R. 684, 689 (Bankr.S.D.Cal. 1988).

42. Although the Bankruptcy Code does not define the term "substantial contribution," courts have found that an applicant satisfies the substantial contribution test when it has provided "actual and demonstrable benefit to the debtor's estate, its creditors, and to the extent relevant, the debtor's shareholders." Michael O. Lebron, Michael C. Lebron, and Anthony Lebron v. Mechem Financial, Inc., 27 F.3d 937 (3<sup>rd</sup> Cir. 1994); In re U.S. Lines, Inc., 103 B.R. at 429; see In re Richton International Corp., 15 B.R. 854, 856 (Bankr. S.D.N.Y. 1981) ("Services which substantially contribute to a case are those which foster and enhance, rather than retard or interrupt the progress of reorganization").

43. Factors that courts have considered in determining whether an applicant has made a substantial contribution in a Chapter 11 case include whether the services (a) were provided to benefit the estate itself or all the parties in the bankruptcy case, (b) conferred a direct, significant, and demonstrably positive benefit upon the estate, and (c) were duplicative of services performed by others. See In re FRG, Inc., 124 B.R. 653, 658 (Bankr. E.D. Pa. 1991); In re Buttes Gas & Oil Co., 112 B.R. 191, 194 (Bankr. S.D. Tex. 1989).

44. Chanin's representation of the Informal Committee during the period from the Petition Date to the date of the formation of the Committee satisfies these factors. Chanin's review of the DIP Facility, the Plan Documents, and the Koch Settlement documents enabled Chanin to be in a position to advise the members of the Committee with respect to these matters early on in the Chapter 11 case. The work

performed by Chanin in the Pre-Committee time period enabled the Debtors' Chapter 11 cases to proceed in a fast track manner because Chanin and the Committee was fully informed about the first day motions, the DIP Facility, the Plan Documents and the Koch Settlement.

45. In particular, Chanin's work negotiating the Koch Settlement during the Pre-Committee time period substantially contributed to the successful result in these Chapter 11 cases. The Koch Settlement was a building block of the Plan because it resulted in a quick and fair resolution of complex claims and it provided the Debtors with additional cash (\$60 million). This cash, along with other available cash, was used to pay down the pre-petition bank group's debt which enabled the Debtors and the Committee to negotiate a consensual treatment of the pre-petition bank group's claims as set forth in the Plan and to obtain exit financing. Although the Pre-Committee time period was relatively short (12 days), much was accomplished by the Informal Committee and Chanin during that time period.

46. The total time spent by Chanin professionals during the Pre-Committee Period was 180 hours. The work involved, and thus the time expended, was carefully assigned in light of the experience and expertise required for a particular task.

47. As shown by this application and supporting documents, Applicant spent its time economically and without unnecessary duplication of time. Attached hereto as Exhibit "C" is a schedule of the hours expended by the professionals during the Pre-Committee Period.

48. The disbursements and expenses have been incurred in accordance with Chanin's normal practice of charging clients for expenses clearly related to and required by particular matters. Chanin has endeavored to minimize these expenses to the fullest extent possible.

49. Chanin's billing rates do not include charges for photocopying, telephone and telecopier toll charges, computerized research, travel expenses, "working meals," secretarial overtime, postage and certain other office services, since the needs of each client for such services differ. Chanin believes that it is fairest to charge each client only for the services actually used in performing services for it. In these proceedings, Chanin charges \$.15 per page for internal duplicating and \$.25 per page for outgoing facsimile transmissions. Chanin does not charge for incoming facsimile transmissions.

### VIII. ALLOWANCE OF COMPENSATION

50. The professional services rendered by Chanin required a high degree of professional competence and expertise so that the numerous issues requiring evaluation and determination by the Committee could be addressed with skill and dispatch and have, therefore, required the expenditure of substantial time and effort. It is respectfully submitted that the services rendered to the Committee were performed efficiently, effectively and economically, and the results obtained to date have benefited not only the members of the Committee, but also the unsecured creditor body as a whole and the Debtors' estates.

51. With respect to the level of compensation, section 330(a)(1) of the Bankruptcy Code provides, in pertinent part, that the Court may award to a professional person:

“reasonable compensation for actual, necessary services rendered ...”

Section 330(a)(3)(A), in turn, provides that

“In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and
- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.”

11 U.S.C. §330(a)(3)(A). The clear Congressional intent and policy expressed in this statute is to provide for adequate compensation in order to continue to attract qualified and competent bankruptcy practitioners to bankruptcy cases.

52. Chanin was retained under Section 327 of the Bankruptcy Code. In addition, Chanin’s Transaction Fee structure and monthly advisory fees were approved pursuant to Section 328(a) of the Bankruptcy Code.

53. Chanin's Fees during the Compensation Period were reasonable under the prevailing legal standard and should be allowed. The amount of these fees is not unusual give the complexity and size of the Debtor's Chapter 11 cases, and these fees are commensurate with fees that Chanin has been awarded in other Chapter 11 cases and that other financial advisors of comparable experience and expertise have charged and been awarded in similar Chapter 11 cases.

54. The fees (including the Transaction Fee) requested herein are the result of a consensual agreement with the Debtors and the Creditors' Committee. Pursuant to these agreements, Chanin expects no objections will be filed by any party with respect to the compensation requested herein.

55. More importantly, as described herein, Chanin provided significant and material assistance to the Committee from the inception to the completed case, including, but not limited to: (i) on behalf of the committee, Chanin, along with committee counsel, negotiated the Koch Settlement with the Debtor's former parent, Koch, which resulted in the Debtor receiving a payment of \$60 million from Koch and the implementation of a critical transition services agreement (ii) undertook an extensive due diligence process to understand the operations and financial position of the Debtor and presented its findings to the Committee, (iii) reviewed and analyzed the financial terms of several motions several motions filed by the Debtor, including, but not limited to, motions regarding asset sales and the assumption and rejection of certain contracts, (iv) reviewed the terms of the proposed DIP financing agreement, (v) reviewed and

analyzed the viability of the Debtors' business plan and projections and presented its findings to the Committee, (vi) monitored and evaluated the Debtors' ongoing operating performance and liquidity position compared to budget, (vii) assisted the Committee in considering various restructuring alternatives, (viii) assisted in the negotiating the proposed treatment of the pre-petition lenders under the plan with the bank group, (ix) reviewed and analyzed various drafts of the plan and disclosure statement to ensure these documents accurately reflected the provisions that were negotiated on behalf of the Committee (x) performed a debt capacity analysis to evaluate the optimum debt levels for the reorganized company, (xi) reviewed and analyzed the terms of the proposed exit financing facility and assisted in the negotiation of the final terms and conditions of the \$175 million term loan and \$50 million revolver with the bank group, (xii) assisted in the negotiation, implementation, and documentation of remaining open issues related to the plan's provisions in the post confirmation period, and (xiii) communicated on a daily basis with the Committee and various other parties-in-interest in this case. All of these efforts have helped the cases progress in an efficient, expeditious and value-maximizing manner.

56. Chanin submits that for all of the foregoing reasons, its' services have significantly benefited the Committee and the Debtors and their estates and have facilitated a successful and expeditious emergence from Chapter 11 while maximizing the value of the Debtors' estates for the benefit all stakeholders.

57. No agreement or understanding exists between Chanin and any other

person for the sharing of any compensation to be received for professional services rendered or to be rendered in connection with these cases.

58. No prior application has been made in this or in any other Court for the relief requested herein for the Compensation Period.

59. In accordance with Local Rule 32, the Certification of Steven R. Strom is attached hereto as Exhibit F and incorporated herein by reference.

**WHEREFORE**, Chanin respectfully requests that this Court enter an order:

- (a) Granting final allowance of fees and expenses in the amount of \$861,445.26 in connection with services rendered during the period from November 9, 1999 through May 31, 2000;
- (b) Granting allowance and payment of fees and expenses in the amount of \$125,389.15 in connection with services rendered during the period from June 1, 2000 through June 30, 2000;
- (c) Granting allowance of compensation for professional services rendered by Chanin pursuant to 11 U.S.C. §503(b) for the period of October 28, 1999 through November 8, 1999 (the "Pre-Committee Period") in the amount of \$50,000.00 and payment in the amount of \$33,333.34 (\$50,000.000 less \$16,666.66 which has been paid);
- (d) Granting allowance and payment of a Cash Transaction Fee in the amount of \$275,000.00;
- (e) Granting allowance and payment of a Convertible Unsecured Note



with a face amount of \$275,000.00, bearing 8% simple interest per annum, maturing December 31, 2001, convertible into common stock at the holder's option; and

- (f) Authorizing and directing the Debtor (i) to pay the balance of unpaid fees and expenses in the aggregate amount of \$158,722.48 comprised of \$125,389.15 for the period of June 1, 2000 through June 30, 2000 and \$33,333.33 for the Pre-Committee period as detailed in Exhibit D, (ii) to pay the unpaid balance of the Cash Transaction Fee in the amount of \$275,000.00 as detailed in Exhibit E and (iii) to execute the Convertible Unsecured Note with a face amount of \$275,000.00 as detailed in Exhibit E; and
- (g) Granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
August 24, 2000

**CHANIN CAPITAL PARTNERS L.L.C.**

By: Steven R. Strom  
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Financial Advisor to the Official  
Committee of Unsecured Creditors