

**Debtors' Application for an Order Expanding the Ordinary Course Retention of Pillsbury Winthrop Shaw Pittman LLP by Authorizing the Employment and Retention of Pillsbury Winthrop Shaw Pittman LLP as Special Litigation Counsel for the Debtors and Debtors In Possession *Nunc Pro Tunc* to October 1, 2009 (the "Pillsbury Application").**

By the Pillsbury Application, the Debtors seek entry of an order authorizing the Debtors to retain and employ Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury") as special litigation counsel *nunc pro tunc* to October 1, 2009.

As set forth in the Pillsbury Application, the Debtors have employed Pillsbury as an ordinary course professional in the chapter 11 cases. The Debtors have determined, however, that Pillsbury's fees and expenses will exceed the limits established pursuant to the Bankruptcy Court's order (the "OCP Order") authorizing the Debtors to retain and employ ordinary course professionals.<sup>1</sup> Accordingly, the Debtors now seek authorization to retain and employ Pillsbury as special litigation counsel.

According to the Pillsbury Application, Pillsbury will continue to represent the Debtors in connection with litigation (the "Tricor Litigation") involving the alleged breach of an environmental agreement with Tricor Refining, LLC ("Tricor") related to pre-closing contamination at the Debtors' former petroleum refinery and associated tank farm in Bakersfield, California. On August 17, 2009, the Bankruptcy Court entered a stipulation and agreed order granting relief from the automatic stay solely for the purpose of allowing the parties to complete that portion of the Tricor Litigation related to Tricor's damages. The Debtors believe that Pillsbury is well suited to serve as special counsel to the Debtors because Pillsbury has represented the Debtors in connection with the Tricor Litigation for over six years, including that portion of the Tricor Litigation related to apportioning liability and determining damages. The Debtors further assert that Pillsbury has represented the Debtors in connection with a number of other environmental matters since the mid-1990s, most of which matters are now closed. As a result of Pillsbury's experience with the Debtors and the Tricor Litigation, the Debtors believe that Pillsbury will be able to represent the Debtors in an efficient manner. In addition, the Debtors maintain that the services to be provided by Pillsbury will not be duplicative of the services provided by the Debtors' other professionals.

The Debtors propose to compensate Pillsbury in accordance with Pillsbury's customary hourly rates. By category, Pillsbury's hourly rates are as follows: (i) partners - \$630-655; (ii) associates - \$360-600; and (iii) paralegals/legal analysts - \$200-330. The Debtors will also reimburse Pillsbury for all other expenses incurred in connection with the services provided. Pillsbury will apply to the Bankruptcy Court for allowance of compensation and reimbursement of expenses in

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<sup>1</sup> Pursuant to the OCP Order, the fees, excluding costs and disbursements, of an ordinary course professional may not exceed \$50,000 per month on a rolling three month basis and the total amount disbursed for the duration of the chapter 11 cases may not exceed \$250,000 per ordinary course professional. Pillsbury has invoiced the Debtors for fees and expenses in the following amounts: (i) \$9,396.20 (March 2009); (ii) \$39,705.45 (April 2009); (iii) \$2,674.92 (May 2009); (iv) \$820.80 (June 2009); (v) \$30,111.50 (July 2009); (vi) \$51,902.40 (August 2009); and (vii) \$58,752.10 (September 2009).

accordance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules and the Local Bankruptcy Rules.

During the 90-day period prior to March 18, 2009 (the "Petition Date"), the Debtors paid Pillsbury \$271,640.10 for professional services performed and expenses incurred in connection with the Tricor Litigation. Pillsbury has also filed a proof of claim asserting a general unsecured claim in the amount of \$515,124.69, representing the amount owed by the Debtors to Pillsbury for professional services performed and expenses incurred in connection with the Tricor Litigation. The Debtors submit that Pillsbury has no connections with the Debtors, their creditors or any other parties in interest in these chapter 11 cases, except that Pillsbury has represented certain of the Debtors' creditors and other entities and parties in interest in matters wholly unrelated to the chapter 11 cases, and that Pillsbury does not hold or represent any interest adverse to the Debtors or their estates with respect to the matters on which Pillsbury is to be engaged.

***The Pillsbury Application has been scheduled for presentment on December 21, 2009 at 12:00 p.m. (ET), with a corresponding objection deadline of December 18, 2009 at 12:00 p.m. (ET).***